THE JOURNAL OF AMERICAN CITIZENSHIP

POLICY REVIEW

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Questions on School Choice

What do the test scores tell us?
Paul E. Peterson

Can choice help public schools?
Nina Shokraii Rees

Will vouchers undermine religious schools?
Joe Loconte

What can we learn from privately-funded vouchers?
Adam Meyerson

How many children will school choice help?
Samuel Casey Carter

Are vouchers constitutional?
Nathan Lewin

Where is the Jewish support for choice?
Jeremy Rabkin

How do we save inner-city children?
Rev. Floyd H. Flake

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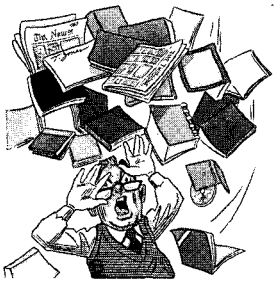

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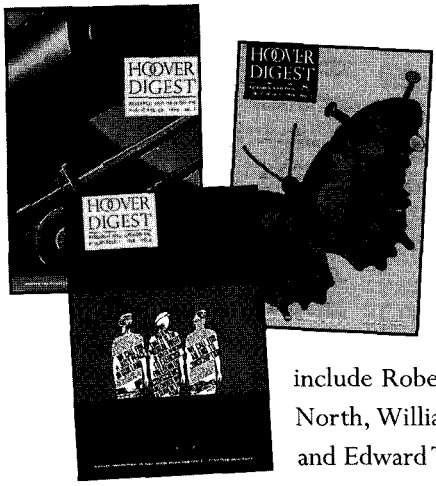

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"Governments have, in the main, financed schooling by paying directly the costs of running educational institutions. [This] step seemed required by the decision to subsidize schooling. Yet the two steps could be separated. Governments could require a minimum level of schooling financed by giving parents vouchers redeemable for a specified maximum sum per child per year if spent on 'approved' educational services."

—Milton Friedman, *Capitalism and Freedom* (1962)

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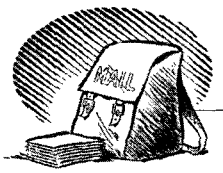

Correspondence

Annexation's Woes

To the Editor:

In Steven Hayward's article about urban planning and regionalization ("Legends of the Sprawl," Sept.-Oct. 1998), he neglects to mention the grandfather of all regionalization efforts: the annexation of boroughs of New York City.

Regionalism's failure can be seen in the pattern of development that followed annexation. Today, both commercial and residential development take place at arm's length from the boroughs. Once thriving areas such as downtown Brooklyn and Long Island City are victims of decay and abandonment. Vast areas in Brooklyn, Queens, and the Bronx are now uninhabitable wastelands.

New Yorkers know well that the boroughs were annexed to broaden the tax base and contribute far more than their fair share of city revenues. But the principal result of annexation was to create one of the country's most corrupt and inefficient governments. Many of the city government workers are honest and dedicated people who try to make the best of an impossible situation.

It is a fact that New York has no local government for the boroughs. Neighborhood associations have formed in some areas to clean up and upgrade parks and other community resources, but their power is slight and they depend on voluntary contributions. These groups, unfortunately, can only change a few things around the edges.

Mexico City is another place where annexation continues even today. Just ask any Mexican residents living near the city border whether they are better off being independent. Those who are financially able endure long commutes to avoid living in the city.

It isn't necessary to entertain theories or debate the possible consequences of annexation. It has occurred in many places with poor results, and those effects can be measured rather than projected. The problems of cities only worsen as their appetite for territory is temporarily satiated by their latest annexation.

Seth Kurtzberg
Scottsdale, Ariz.

Achievement and Race

To the Editor:

Although I am not a conservative, I thought D.W. Miller's article ("Opportunity Without Preference," Nov.-Dec. 1998) was excellent because it emphasized the importance of educational and professional preparation for economic competition over mere representation in the workplace.

But Miller does not address the psychological barriers that many African-Americans and other minorities still have to hurdle even when they prove to have the proper skills. Due to discrimination even talented minorities face an uphill battle. We must continuously prove ourselves, usually significantly outperforming our counterparts in order to move up the professional ladder. And let's not forget that non-ethnics receive preferential treatment in admissions at upper-tier schools, based on family legacy and their financial support of the educational institution.

Ralph Coleman
Bowie, Md.

To the Editor:

Miller's article on trends in minority education, as distinguished from affirmative action in the classic sense, was the best thing I've read on education in a decade. This piece reaffirms my faith that people can be given equal opportunities without engaging in unconstitutional, unfair and—frankly—unsuccessful affirmative action programs. It's time to stop arguing about race and look for this kind of solution.

Larry W. Bloomer
Harrisburg, Pa.

To the Editor:

Congratulations to D.W. Miller on his excellent essay on black achievement. He is eloquent and persuasive in his rejection of racial preferences in college admission policies, and his discussion of novel and successful approaches to improving the success of minority students in college is valuable indeed.

Nonetheless, it is important that these new programs not be conceived or implemented in racial terms, as some of them are. There are plenty of Asian and white at-risk students who merit the creation of better educational approaches, too, and certainly they should be allowed to participate in the programs that have already been created. As I explained at greater length in *Policy Review* earlier this year ("Beyond Quotas," May-June 1998), using race is wrong at any point in the process—not only when students are recruited and admitted, but also in the attention and treatment they receive afterwards.

Roger Clegg
Center for Equal Opportunity
Washington, D.C.

Trujillo's Achievement

To the Editor:

Tyce Palmaffy's story about Anthony Trujillo ("Numero Uno," Sept.-Oct. 1998) was a welcome reminder that our nation's urban public schools can be transformed into places where families want to send their children—not places to flee.

Hard work by educators, high expectations for students, focused leadership from those directing the district, outreach to parents, and a laser-like commitment to producing results, all come together under the umbrella of freedom and responsibility to set the standard for urban schools.

But it should come as no surprise that boosting the academic performance of high school students has yet to bear fruit. Unfortunately, years of neglect can't be easily overcome. Student achievement in a school system is built from the bottom up—from the early grades to the upper grades. Efforts like those of Anthony Trujillo not only have to be adopted, but sustained.

Bruno V. Manno
Annie E. Casey Foundation
Baltimore, Md.

Letters to the Editor

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Editor's Note

Education's Evil Empire

by Adam Meyerson

Adam Meyerson, vice president for educational affairs at The Heritage Foundation, is the editor of Policy Review.

Over the next two years, Congress will reauthorize the Elementary and Secondary Education Act, a $13 billion federal program that encompasses most federal legislation affecting K-12 education. At the heart of ESEA is the infamous Title I program, Aid to the Poor. This $8 billion annual disaster has spent over $100 billion since its inception in 1965. Its catastrophic result: 57 percent of central-city fourth graders in public schools cannot read.

Education has historically and rightfully been a state and local responsibility in the United States. Title I reauthorization offers an excellent opportunity to transfer resources and responsibility back to states, and to show how vouchers and other choice models would improve education for poor children compared with current federal aid. Reauthorization also gives federal legislators an extraordinary opportunity to focus national public attention on the failures of inner-city education. Indeed, congressional hearings and surrounding media events could be modeled on Ronald Reagan's ideological offensive against the Kremlin.

Reagan pursued successful military, economic, and political strategies against the Kremlin. But perhaps his most important contribution to Cold War victory was his ideological strategy to delegitimate Communism—to make Soviet leaders so embarrassed, so ashamed of themselves, that they were no longer willing to kill to protect their own power. This is why the "Evil Empire" speech was so significant: its biggest impact was on Kremlin leaders who knew in their hearts that Reagan was right. A daily barrage of public diplomacy through Radio Free Europe, Radio Liberty, and other avenues drove the message home.

By the mid-1980s top Soviet officials were beginning to make public apologies for the crimes of their regime. In 1987 Reagan asked Gorbachev to tear down the Berlin Wall. In 1988 he took his message of freedom to the very bosom of the enemy—under Lenin's statue at Moscow State University. Under Reagan's withering moral pressure, the *nomenklatura* lost so much confidence in itself that in just a few years it voluntarily gave up power and the wall came tumbling down.

The public education establishment today is where the Soviet Union was in 1987. It looks all powerful. It rules by fear and intimidation. But it is ideologically a house of cards that will collapse if conservatives go on a sustained moral offensive and highlight its failure to teach basic skills to poor children. In so doing, we can deny defenders of the education monopoly all moral legitimacy—in their own minds! Already, the education establishment is starting to confess its crimes. The most dramatic example was the June 1998 *Wall Street Journal* article by Arthur Levine, president of Columbia University Teachers College, saying maybe we should try choice for the poorest urban students.

Like the Soviet Union in 1987, the education establishment looks all powerful. But it is ideologically a house of cards.

We can accelerate the momentum by making common cause with education's dissidents. Black America, the very community the monopolists purport to represent, is beginning to rise up in righteous anger against the failure of public schools. Rev. Floyd H. Flake, the former Democratic congressman, is emerging as the Solzhenitsyn of American education, the prophetic voice willing to decry inner-city schools as the gulags they've become.

Reagan offered his hand of friendship to the Russian people even as he denounced the evils of Communism. He made it clear that he was pro-freedom, not anti-Russian. So, too, it is important for conservatives to demonstrate that we are friends of teachers and principals, friends of public schools. It is precisely because we care about public schools so deeply that we denounce the "evil empire" of monopoly and bureaucracy and low standards and expectations.

As we call for vouchers, we should make it clear that they are not the cure-all for the crisis in education. In order for there to be genuine choice and competition, public schools must also be reformed. They must be given the combination of freedom and accountability that makes private and charter schools so effective. Education reform benefits all schools: public, private, and parochial.

The education establishment is fighting with all its might both choice and competition and the reforms that would save public schools. But deep in their heart they know they are wrong. They know they are failing America's children, especially our poor children. Now is the time to nourish those secret self-doubts and bring them into the open. Just as Reagan asked Gorbachev, if he cared about openness, to tear down the wall, so we can ask the education establishment, if it cares about children, to allow schools to excel.

Ronald Reagan predicted in 1982 that Marxism-Leninism would soon be consigned to the ash heap of history. The same prediction can be made today of the evil empire of American education.

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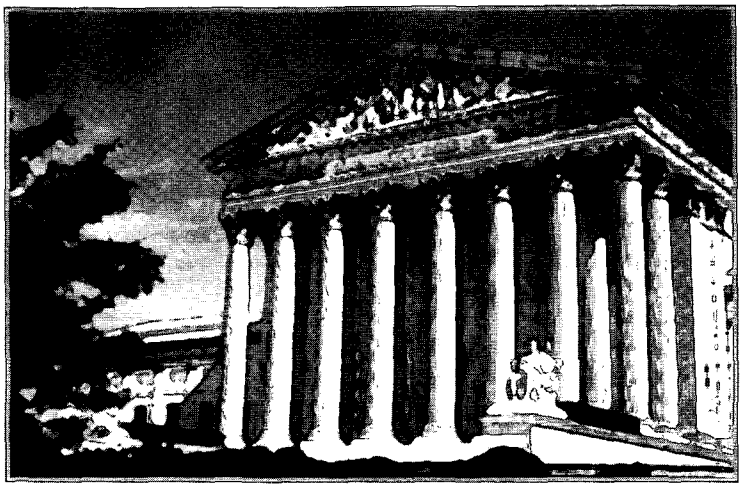
Are Vouchers Constitutional?

Yes, and here's how to design them

By Nathan Lewin



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The widespread recognition that our country's public-school system is in grave need of reform—reform that competition and diversity might most effectively bring about—has led people from all walks of life to promote "school choice" by means of "voucher" programs. Generally speaking, these programs provide parents with an individual scholarship, or "voucher," which they can use to defray the cost of a child's tuition at any school—public or private, religious or secular—so long as that voucher is awarded on the basis of neutral secular criteria. Because these programs are now the object of much legal and political debate, it is important to identify the optimal strategy for sustaining their constitutionality in the courts.

In a line of cases beginning half a century ago, the Supreme Court has interpreted the "Establishment Clause" of the First Amendment to strike down various attempts to provide financial assistance to students in religious schools. More recent Supreme Court decisions, however, suggest that a majority of today's Court is more sympathetic to the needs and rights of such students.

A review of the Supreme Court's cases dealing with aid to students in religious schools reveals a confusing, contradictory, and seemingly *ad hoc* "zigzag trail" of decisions. On the one hand, over the years the Court has permitted programs that reimbursed parents of religious-school children for public-transportation expenses, that loaned secular textbooks to students in religious schools, that provided construction and other grants to religious colleges for secular purposes, and that reimbursed religious schools for the expense of administering and grading standardized tests. On the other hand, the Court has struck down government programs that provided remedial-education classes taught by public-school teachers to religious-school students, that loaned secular instructional materials and equipment—such as maps, film projectors, and lab equipment—to religious schools, and that reimbursed low-income parents for tuition expenses at private schools.

School-aid cases reveal two distinct constitutional theories at play. In early cases, beginning with *Everson vs. Board of Education* in 1947, the Supreme Court focused on the content of the aid provided and asked whether the aid in question was secular in nature. In the 1970s and 1980s, however, the Court moved away from this approach, and, demonstrating an increased suspicion towards religious schools, began asking whether even secular aid might nonetheless have the potential to "advance religion" or create the appearance of a government "endorsement" of religion.

In the late 1980s, and in its most recent opin-

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ions, the Supreme Court has rediscovered and returned to a theme that was present in its earliest cases. In these recent decisions the Court has increasingly focused not on the *kind* of aid in question, but rather on the *manner* in which that public assistance is provided. Independent private choice has been accepted as a means of ensuring that the government does not "establish" religion. In these cases, the Court has generally upheld programs that provide benefits to individuals according to secular and neutral criteria, even if those individuals then use those benefits to support or attend a religious school. Regarding the constitutionality of voucher programs, *how* not *what* public aid is directed to religious institutions has become the decisive issue.

According to the Court, *how* not *what* public aid is directed to religious institutions has become the decisive issue.

To take an example, in *Mueller vs. Allen* (1983) the Court upheld a Minnesota tax-deduction for education expenses, emphasizing that the deduction was available to parents whether their children attended public, private, or religious schools. In *Witters vs. Washington Dept. of Services for the Blind* (1986), the Court permitted a blind student to use a publicly funded educational grant to attend a religious college: his disability entitled him to the grant entirely on the basis of neutral and secular criteria. Similarly, the Court more recently held in *Zobrest vs. Catalina Foothills School District* (1993) that a deaf student, entitled by law to an interpreter at government expense, could receive the interpreter's services even if he attended a Catholic school. In all of these cases, the Court emphasized that it was a *private individual*, not the government, who made the decision to use public funds at a religious school. This line of "private choice" cases suggests that well-crafted school-voucher programs can now pass constitutional muster. Let's look at the details.

Purchasing Power

In the jurisprudence regarding aid to religious schools, the first approach focuses on the *nature* of the activity financed, that is, on the *content* of the government aid. For example, when a school district decides to reimburse parents for the cost of bus transportation, as one did in *Everson*, or to loan secular textbooks to students attending religious schools, as in *Board of Education vs. Allen* (1968), public funds are used only to support conduct that is incontestably secular. Such services are, in the words of the 1975 opinion in *Meek vs. Pittenger*, "self-policing, in that starting as secular, nonideological and neutral, they will not change in use." The contents of a particular secular textbook are fixed; the book remains a secular book no matter where or by whom it is read. To the extent that the Establishment Clause prohibits public funds to be spent on religious activity or teaching, any payments from a government agency for bus transportation or for the purchase of secular books loaned to religious schools can be justified on the grounds that no public money is being spent "for religion." Rather, the funds are being used to purchase incontestably secular services and materials.

In reply, the argument is often made that by relieving the religious school of the need to purchase these secular services, the government agency frees up money for religious goods or services that, it is assumed, the government could not purchase for the school directly. But this claim—that there is an indirect benefit provided to religion whenever the government pays for a part of a religious school's secular program or activity—rests on the false assumption that the government may not provide indirect benefits to religion. The Court has regularly rejected the sweeping argument that any such indirect benefits to religion violate the Establishment Clause. As the Court noted nearly 50 years ago in *Everson*, the possibility of indirect benefit to religion exists whenever, for example, a policeman protects children walking to and from religious schools or a city hauls away a church's trash. The Court reaffirmed this point in *Zobrest*, the case permitting the sign-language interpreter in a Catholic school, when, quoting *Widmar vs. Vincent* (1988) it wrote: "[I]f the Establishment Clause did bar religious groups from receiving general government benefits, then a 'church could not be protected by the police and fire departments, or have its public sidewalk kept in repair.'" Money, after all, is fungible. Any time a religious organization receives the benefit of any public service, it is spared the expense of providing that service for itself. If an organization has that much more money available for its religious mission on account of some public benefit or service that it has received, it cannot be said that the public has thereby acted to establish religion.

This first approach emphasizes *what* the program provides, concentrating, as it does, on the nature or content of the service purchased with public funds. After the initial success of this approach in *Everson* and *Allen*, advocates of aid to religious schools next sought public funding for the salaries of teachers in religious schools who taught secular subjects. Arguing that, as in the earlier cases, the nature and content of the aid sought was, without dispute, secular, they also sought funding for the purchase of textbooks, maps, lab equipment, and various counseling services.

Throughout the 1970s, in *Lemon*, *Nyquist*, *Meek*,

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and *Wolman*, the Court rejected this approach. Purporting in *Lemon* to synthesize the "cumulative criteria developed by the Court over many years" into a three-pronged analytical test for programs challenged as unconstitutional "establishments" of religion, the Court held that: (1) A challenged statute or program must have a secular legislative purpose; (2) its "principal or primary effect" must be one that "neither advances nor inhibits religion"; and (3) it must not result in "excessive government entanglement with religion." Applying this three-part test to these cases, the Court asked whether, notwithstanding the secular content of the government benefits themselves, they nonetheless might have the "effect" of furthering the religious mission of the parochial school. The Court based its decisions in each of these cases not on the nature of the aid itself, but on the potential for indirect advancement of religion, indoctrination by the teachers of secular subjects, "political divisiveness," and "entanglement." As is not surprising, this kind of analysis has proved to be far less predictable and consistent than a straightforward focus on the content of the aid provided or the nature of the activity subsidized. As the Court acknowledged in *Lemon,* and has been confirmed by the inconsistency of later decisions, "[c]andor compels acknowledgment . . . that we can only dimly perceive the lines of demarcation in this extraordinarily sensitive area of constitutional law." This candor aside, a new approach was necessary.

Private Choices

The second approach considered by the Court neither focuses on the nature of the aid nor limits the use of secular goods funded through government programs. Instead, public money allocated under such programs could benefit religious schools directly and might even be used to purchase or subsidize unabashedly religious goods and services. The constitutional key to these programs, though, is that any benefit to religion, direct or indirect, must be the result of a "genuinely independent and private choice." Any benefit conferred on a religious school within such a program is not conferred by government. Instead, government remains neutral and disburses to private individuals public funds earmarked for a particular public purpose. Private individuals then determine where the money is to be spent. Today's school-choice and voucher proposals represent an excellent example of this second approach.

Although *Allen* and *Everson* contained the seeds of this second approach—the bus services and textbooks were provided to *all* schoolchildren, and it was therefore a matter of private choice whether public funds ended up being used in religious schools—the first clear example of this approach considered by the Court was the tuition-reimbursement and tax-credit program struck down by the Court in *Nyquist.* The Supreme Court invalidated the program, deeming it insignificant that individual parents, and not government choices, determined whether program benefits would be used at religious or secular nonpublic schools.

The New York program in *Nyquist,* however, is a flawed example of this second approach because it failed to provide similar tax relief for all parents, in-

The Winding Road

***Everson vs. Board of Education* (1947),** The court ruled that the Board of Education may reimburse parents of children in religious schools for public-transportation costs.
***Board of Education vs. Allen* (1968),** New York may lend secular textbooks to students who attended religious schools, without conflicting with the Constitution.
***Tilton vs. Richardson* (1971),** The court upheld a program awarding religious schools federal grants to be used exclusively for secular educational purposes.
***Lemon vs. Kurtzman* (1971),** Religious schools may not receive reimbursements for teachers' salaries, instructional materials, or textbooks related to secular subjects.
***P.E.A.R.L. vs. Nyquist* (1973),** New York state may not support "parochial" education with direct subsidies and tax benefits arguing that such aid directly advances religion.
***Meek vs. Pittenger* (1975),** Loaning secular "instructional materials" has the "effect" of advancing religion.
***Roemer vs. Board of Public Works of Md.* (1976),** Religious colleges may receive direct grants for secular programs.
***Wolman vs. Walter* (1977),** Religious schools may not receive state funds for field-trip transportation or instructional materials and equipment.
***P.E.A.R.L. vs. Regan* (1980),** Religious schools may be reimbursed for state-required tests.
***Mueller vs. Allen* (1983),** State income tax deductions for religious school expense are deemed constitutional.
***Grand Rapids School District vs. Ball* (1985),** Public school teachers may not supplement the education of religious-school students with classes in secular subjects.
***Aguilar vs. Felton* (1985),** Public-school teachers may not provide remedial education to Title I religious-school students.
***Witters vs. Wash. Dept. of Services for the Blind* (1986),** The court permitted a blind student to receive government rehabilitation funds at a religious school.
***Zobrest vs. Catalina Foothills School District* (1993),** Public funding of an interpreter for a deaf student at a Catholic school is unanimously upheld.
***Rosenberger vs. University of Virginia* (1995),** The court upheld the direct funding of a religious publication on a college campus.
***Agostini vs. Felton* (1997),** The court overruled *Aguilar* and *Ball* holding that to provide remedial education to low-income, special-needs children in religious schools neither advances religion nor creates "excessive entanglement" between church and state.

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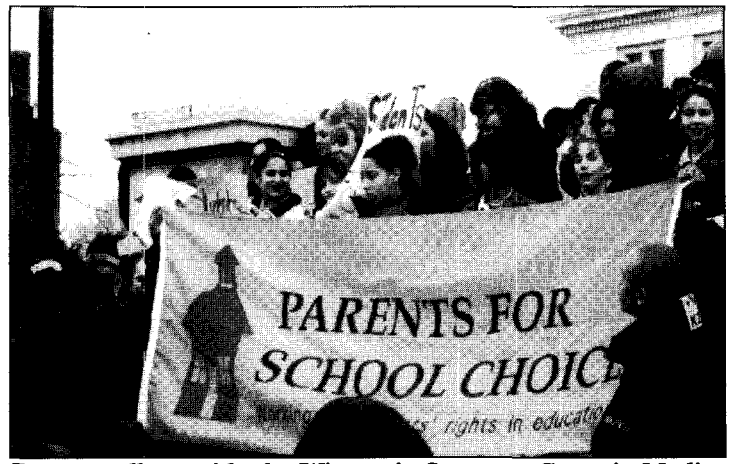
cluding parents of children attending *public* schools. The Minnesota tax legislation that was challenged in *Mueller vs. Allen* filled this gap and passed Supreme Court scrutiny. The Court, in upholding the Minnesota program, was not troubled, as it had been in *Nyquist*, by the fact that public money might end up having "an economic effect comparable to that of aid given directly to the schools." In fact, the Court recognized that the vast majority of the benefits conferred under the program *would*, as a practical matter, end up in religious schools. What was more important to the Court—in keeping with the constitutional theory of this second approach—was that "public funds become available [to religious schools] only as a result of numerous private choices of individual parents of school-age children." To the question why the result in *Mueller* was different than in *Nyquist*, despite the fact that both cases involved aid to parents, not schools, Justice Rehnquist answered, "[m]ost importantly, the deduction [was] available for educational expenses incurred by *all* parents, including those whose children attend public schools and those whose children attend nonsectarian private schools or sectarian private schools."

A different constitutional theory is at work in *Mueller* than the one that allows public funding to underwrite bus transportation, textbooks, school lunches, instructional materials, and building-construction grants. The program in *Mueller* was constitutional not because of *what* was purchased with public funds but because of *how* that funding reached its beneficiary. Under this theory, the Constitution is not violated because the money is directed to its ultimate beneficiary by a private agent, not by a state official.

The Court's decision in *Mueller*, and its apparent acceptance of this second approach, explains the result in both *Witters* and *Zobrest*. These cases involved expenditures for services that were unquestionably religious in nature. In *Witters* a blind student was permitted to use public funds to study to be a pastor, and in *Zobrest*, government money provided a deaf student in a Catholic school with an interpreter, even in his religion classes. The Court upheld the aid in both cases. What is more, both the *Nyquist* tax-credit plan and the *Mueller* tax deduction had only limited potential impacts on the public treasury. *Witters* and *Zobrest*, however, extended the constitutional theory of *Mueller* to the area of affirmative government grants. Mr. Witters was permitted to spend government money to buy a religious education, and the parents of James Zobrest were empowered to have public funds spent on an interpreter at a parochial school. As a result of the Zobrests' private choice, the government-sponsored interpreter communicated to their child the content of the school's religious curriculum as well as its secular teaching. The Court's view of the matter was clear: "James' parents have chosen of their own free will to place him in a pervasively sectarian environment. The sign-language interpreter they have requested will neither add to nor subtract from that environment, and hence the provision of such assistance is not barred by the Establishment Clause."

The Supreme Court's decisions concerning aid to religious schools highlight the important distinction between (1) public-funding programs that limit *what* may be purchased with government money and (2) public-funding programs that prescribe *how* government money reaches private beneficiaries. Various efforts along the first of these lines to shape and structure programs funding only secular activities were rebuffed by the Supreme Court in a series of decisions issued in the 1970s and 1980s. Although many of those cases were wrongly decided, they form the constitutional landscape and cannot be ignored in considering constitutional strategy. By contrast, programs that provide unrestricted public funding to private religious schools as a result of designations by private individuals have proved increasingly successful in the Supreme Court in recent years. Today's school-voucher programs naturally fall into the latter category, and there are positive signs that they would be upheld by the Supreme Court.



Parents rally outside the Wisconsin Supreme Court in Madison, Wis., last February in anticipation of *Jackson vs. Benson*.

Photo courtesy of the Institute for Justice

In November 1998 the United States Supreme Court declined to review the Milwaukee school voucher program held to be constitutional in the Wisconsin State Supreme Court decision of *Jackson vs. Benson*. In that decision the Court wrote, "Not all entanglements have the effect of advancing or inhibiting religion. The Court's prior holdings illustrate that total separation between church and state is not possible in an absolute sense." So long as opinions like this one stand, so will our strategy.

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Justice in Wisconsin

On November 9, 1998 the United States Supreme Court declined review of a Wisconsin Supreme Court decision holding that Milwaukee's Parental Choice Program, which provides tuition vouchers for low-income families to send their children to both religious and secular private schools, does not violate the United States Constitution's prohibition of laws "respecting an establishment of religion." School voucher critics greeted the decision with apocalyptic warnings of a constitutional crisis.

No such constitutional crisis exists, of course, as the Wisconsin court was simply following recent decisions by the U. S. Supreme Court. For example, in *Mueller* (1983), *Witters* (1986), and *Zobrest* (1993), the Court upheld public support of religious education because the government programs involved neutrally-provided benefits to a broad class of citizens without reference to religion.

Most recently the Court continued this trend in *Agostini vs. Felton* (1997), and held that the Establishment Clause does not prohibit the City of New York from sending public school teachers into religious schools to provide remedial education to children in low-income areas. In reaching this conclusion, the Court vacated its earlier decision in the same case holding that the New York program was unconstitutional.

The *Agostini* Court found no material difference between New York's provision of remedial education to poor children and the benefits upheld in *Witters* and *Zobrest*. The remedial instruction provided by New York was available only to eligible participants, without regard to the sectarian-nonsectarian, public-nonpublic nature of the school attended by the beneficiary. Thus, New York's program did not have the impermissible effect of advancing religion, as any benefit to religion resulted solely from the private choices of individuals. The Court noted that the number of students who use the neutral aid at sectarian schools does not determine the constitutionality of the program at issue.

The *Agostini* Court also found that the criteria used by New York in identifying eligible beneficiaries did not impermissibly advance religion "by creating a financial incentive to undertake religious indoctrination." Such an incentive is not present, the Court said, "where the aid is allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion, and is made available to both religious and secular beneficiaries on a nondiscriminatory basis." Because New York's remedial education services were "allocated on the basis of criteria that neither favor nor disfavor religion," and were "available to all children who meet the Act's eligibility requirements, no matter what their religious beliefs or where they go to school," the remedial education program did not "give aid recipients any incentive to modify their religious beliefs or practices in order to obtain those services."

In light of the constitutional principles outlined in *Mueller*, *Witters*, *Zobrest*, and *Agostini*, it is not surprising that the Wisconsin court had little difficulty determining that Milwaukee's voucher program does not violate the First Amendment. From these decisions, the Wisconsin court distilled the general principle that state educational assistance programs do not have the impermissible effect of advancing religion if those programs provide public aid to both sectarian and nonsectarian institutions (1) on the basis of neutral, secular criteria that neither favor nor disfavor religion; and (2) only as a result of the private choices of individual parents.

The Milwaukee program easily satisfies each of these requirements. First, the Milwaukee program provides public aid on the basis of neutral criteria which neither favor nor disfavor religion. As stated by the Wisconsin Supreme Court, the aid "is made available to both religious and secular beneficiaries on a nondiscriminatory basis." Second, any aid that flows to sectarian schools does so not because of any action by the state, but "as a result of numerous private choices of the individual parents of school-age children."

Milwaukee's program provides no incentive to undertake religious education, or to alter one's religious practices, because the aid is available without regard to whether the student intends to pursue a sectarian or nonsectarian education. Nor does the program provide greater benefits to students attending religious schools. In short, as the Wisconsin court held, the Milwaukee program "provides a neutral benefit directly to children of economically disadvantaged families on a religious-neutral basis." As such, the program "does not run afoul of any of the three primary criteria the Court has traditionally used to evaluate whether a state educational assistance program has the purpose or effect of advancing religion."

The Supreme Court's refusal to disturb the Wisconsin court's decision represents a substantial victory for the Institute for Justice, which represented Parents for School Choice and others in the Wisconsin case. As a result of this victory, the Milwaukee program continues to provide educational alternatives for many low-income families in the inner city. Let us hope this well-reasoned opinion provides authoritative support for the constitutionality of similar school voucher programs facing constitutional challenges in other jurisdictions.

—Bradley S. Clanton
Wiley, Rein & Fielding

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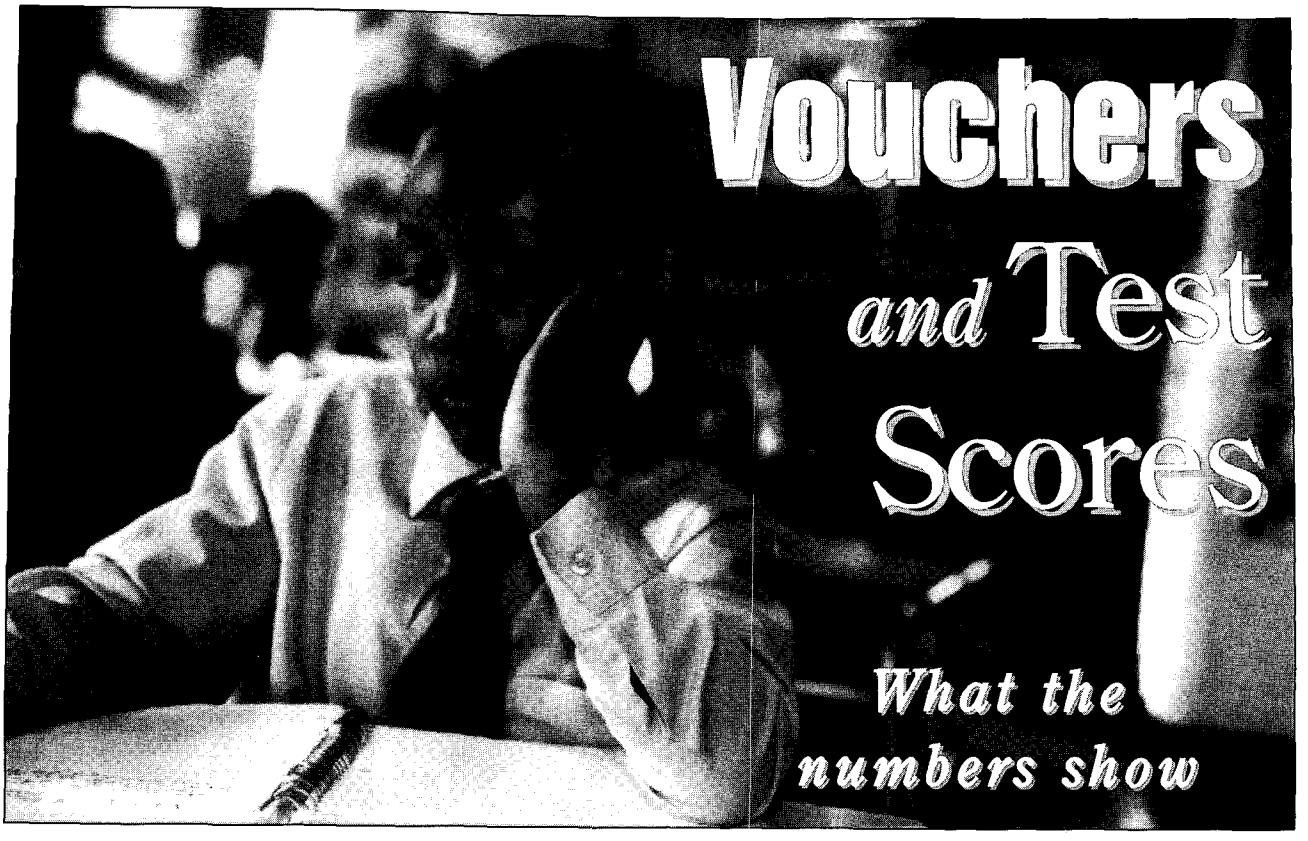

Vouchers and Test Scores

What the numbers show

By Paul E. Peterson

Students in private schools learn more and score higher on standardized tests than their counterparts in public schools. Some say this does not prove that private schools are better but only shows that children from more motivated families (who are willing and able to pay the tuition) attend private schools. As former Wisconsin state school superintendent Herbert Grover, an arch-critic of school choice, has argued, "Do private school children outperform children in public schools? It's hard to imagine that they wouldn't, given the initial advantages they enjoy from their parents."

To see whether students actually learn more as a result of attending a private school, my colleagues and I are currently evaluating a school-choice pilot program in New York City funded by the School Choice Scholarships Foundation (SCSF).

In February 1997 the SCSF offered public-school students from low-income families who were entering grades one through five a chance to win a $1,400 annual scholarship, good for at least three years, to help defray the cost of attending a private school, either religious or secular. Over 20,000 applications were received. Ninety percent of the applicants were either Latino or African American. Scholarships were awarded by means of a lottery. Some 1,200 SCSF scholarships were used to attend some 225 participating private schools. Students began school in the fall of 1997.

Bryant Jean (above) is one of 1,200 students who received a School Choice Scholarship in New York City.

Photo by Ericka McConnell

Because SCSF awarded scholarships by means of a lottery, it was possible to evaluate the pilot program using a scientific method regularly employed in medical research, the randomized field trial (RFT). In a medical RFT, one group is given a pill, the other a placebo. Individuals are assigned to one or another group by lot, or, in scientific parlance, at random. This method is preferred over all others, because the test and control groups, on average, can be assumed to be similar, save for the

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medical intervention under investigation. Positive results from RFTs are required in order to win approval of a medication from the Food and Drug Administration.

In my view, education innovations should be subjected to similar testing before being introduced on a wide scale. Unfortunately, this seldom happens, in part because public schools typically resist rigorous, independent evaluations, but also because the Department of Education, unlike the FDA, has not provided strong research leadership. Fortunately, SCSF was willing to permit a rigorous, independent evaluation of its pilot program, and my colleagues and I were able to obtain funds for the evaluation from a broad network of private foundations.

The lottery was held in mid-May 1997. The firm responsible for the evaluation, Mathematica Policy Research, administered the lottery in order to leave no doubt about its integrity; SCSF announced the winners.

To estimate the effects of attending a private school, the mathematics and reading components of the Iowa Test of Basic Skills were administered in the spring of 1997 to scholarship applicants. Each component of the test took approximately one hour to complete. Students participating in the evaluation were tested again in the spring of 1998. Both the scholarship students and students in the control group were tested in locations other than the school they were currently attending. To guarantee similar testing conditions, both for scholarship students and students in the control group, the tests were administered under the supervision of the evaluation team.

Each student's performance was given a national percentile ranking between one and one hundred. The national average is 50. The data indicate that these students are educationally disadvantaged: overall, average test scores were below the 30th percentile. Results were collected from approximately 85 percent of the participants in the evaluation, an unusually high response rate from a low-income, inner-city population.

Our evaluation focused on students entering grades two through five, because only from them were we able to obtain baseline test-score data. Baseline test-scores were unavailable for those entering first grade, because those children were still in kindergarten at the time of application.

After one year, the national percentile ranking of students attending private schools was, on average, two points higher in reading and mathematics than the ranking of the comparison group that remained in public schools. Differences were uneven in grades two and three, but choice students in grades four and five achieved substantially higher scores, six percentile points more in math, and four points more in reading (Figure 1).

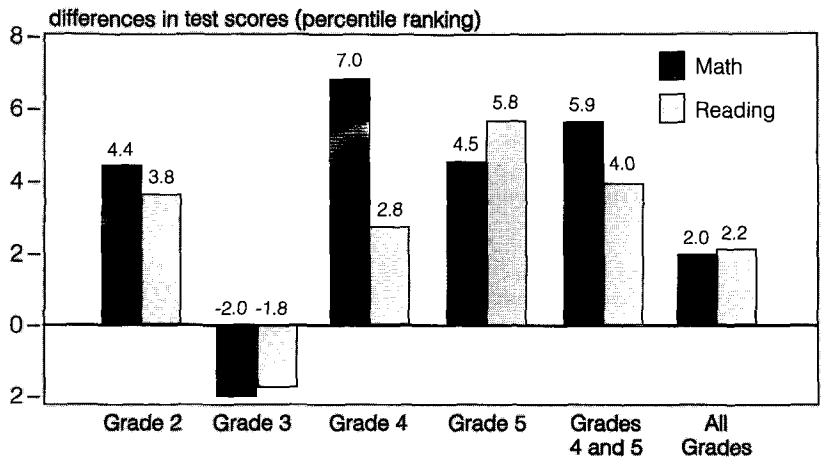
Long-term Rewards

When reporting these effects of school choice, *Education Week* headlined them as "modest" the *New York Times* found them "slight." Whether or not these gains after one year are slight or substantial depends in part on what happens in later years. Nonetheless, there is reason to conclude that the effects of choice on the performance of students in their middle years is already sizable enough to merit careful consideration.

Scholars typically calculate effect sizes in standard deviations. As an indication of both the average score and the degree of variation from it, standard deviation allows us to compare results across different data sets. One can grasp its essential quality by keeping in mind that one standard deviation is approximately the current difference between the average test scores of blacks and whites nationwide. The effects of school choice on students in fourth and fifth grade are roughly one fifth of a standard deviation. If similar effects occur in subsequent years, these are large enough to bring the scores of minority students up to the levels currently attained by whites. This would be taking a large step toward achieving equal educational opportunity across ethnic groups, something most people would regard as a major accomplishment.

The First Year in New York (Figure 1)

The positive effects of school choice have been demonstrated by comparing the difference in test scores of students in the SCSF program and a control group of students who remained in public school.



Source: Paul E. Peterson, David Myers, William G. Howell, and Daniel Mayer, "An Evaluation of the New York City Choice Scholarship Program: The First Year," Program on Education Policy and Governance, Harvard University, October 1998.

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More to the point, these test scores are not a triviality, or a hobgoblin only of interest to academic researchers. Students who score higher on standardized tests are more likely to remain in school, more likely to achieve a college degree, more likely to remain married and avoid welfare dependency, and more likely to enjoy a higher family income. According to the best available estimates, a gain of one standard deviation in test scores will later in life increase that person's family income by over 20 percent. If students in the choice program in New York City simply hold the gains they have already achieved, one could expect their family income, on average, to be 4 percent higher than it otherwise would have been. Assuming a modest annual income of $30,000, that's an increase of $1,200 a year. If these estimates are reasonably accurate, the philanthropists in New York will realize an ample return on their charity dollar, once these students enter the labor force.

Another way to consider the effects of the SCSF program is to compare them to the results of a different intervention. Very few education innovations of interest have been subjected to a random field trial, but one. Class size reduction from 25 to 15 students has been rigorously evaluated by this method. It is worth comparing the results of a school choice field trial with the results from a class-size reduction experiment, because both innovations can be introduced rather straight-forwardly by legislative action. (Other reforms, such as requiring students to do more homework, are much more difficult to mandate by legislative fiat.)

The class size RFT was conducted in Tennessee, where students were randomly assigned to classes of different sizes. No incremental effects on student learning were observed for students after the first grade. Among first graders, effect sizes varied between .15 and .30 standard deviations. Fred Mosteller, one of those involved in the experiment, observed, "although effect sizes of the magnitude of 0.1, 0.2, or 0.3 may not seem to be impressive gains for a single individual, for a population they can be quite substantial."

Congress was apparently persuaded by such reasoning and by the results from the effect sizes observed in Tennessee. After extensive policy deliberations in which the Tennessee evaluation was frequently mentioned, in 1998 Congress enacted legislation appropriating $1.1 billion for the purpose of reducing the size of elementary school classes.

The effect sizes observed in our evaluation of the New York scholarship program in grades four and five do not differ materially from those observed in Tennessee in grade one. The effects among fourth and fifth graders of attendance at a private school were, on average, .23 and .18, not much different from the .15 to .3 effects observed in the first grade of the Tennessee Study—the only grade where incremental class size effects were detected. Following Mosteller's guidelines, these effect sizes, observed after just one year in the program, can be said to be "quite substantial."

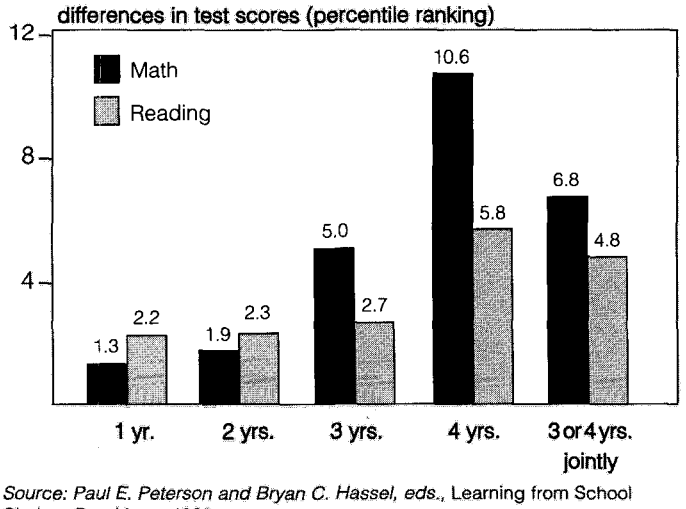
From a cost-benefit perspective, school choice seems a better intervention than reductions in class size. To get effects of about .2 standard deviations, class sizes in the Tennessee study were reduced from approximately 25 to approximately 15 students. If such reductions were introduced as a school reform more generally, it would increase the size of both the teaching staff and classroom space by 40 percent. Per pupil costs could be expected to increase by approximately 20 percent (if it is assumed that classroom costs constitute about half the cost of public schooling). By comparison, the per pupil cost of school choice is minimal; the taxpayer may in fact enjoy some savings, if eventually competition among schools leads to more effective education at lower cost.

Moreover, the incremental benefits of class size reduction disappear after first-grade. If larger differences between the test scores of scholarship students and those in the control group appear in subsequent years in New York City, the benefits of school choice will clearly outstrip those obtained through large reductions in class size.

When we initially announced our findings, Sandra Feldman, president of the American Federation of Teachers, offered the interesting hypothesis that class size and school size probably accounts for the results that we observed. "I see it as

Improvement Over Time (Figure 2)

Students in Milwaukee's school choice program participated in a randomized field test from 1990-1995. Differences in math and reading scores between choice and public school students increased each year.



Source: Paul E. Peterson and Bryan C. Hassel, eds., Learning from School Choice, *Brookings, 1998.*

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a validation of the need for small class sizes, and for smaller schools that are orderly and disciplined," she said. To test this hypothesis, we conducted a statistical test in order to ascertain whether any of the following characteristics could account for the higher test scores in the private schools: (1) class size (2) school size (3) discipline problems (4) school-parent communications (5) school resources.

Data on these potential explanatory factors were available from information contained in the questionnaires administered to parents when the students were tested. Although parents reported that private schools were superior in all five respects, only discipline problems had a large and consistently positive effect on both the math and reading scores of the two older grades. Class size had no significant effect. Students in larger (not smaller) schools did slightly better in math (but not reading). Improved parental communications had a positive effect on math (but not reading) scores, and additional resources had a positive effect on reading (but not math) scores. Most importantly, none of these factors, nor all of them, reduced the size of the effects of receiving a scholarship to attend a private school in fourth and fifth grade.

These new pilot programs provide new opportunities to find out whether students learn more when families are given a choice of schools.

Perhaps the program's impact comes from the sheer fact of choice: the opportunity to better match older students with an appropriate school. But, more likely, it is some constellation of many factors that affect scores in ways not easily captured by a statistical model. In any case, the advantage of attending a private school is not readily reduced to any one or single set of factors.

As we have pointed out, the advantages of attending a private school in New York City are not clearly evident until a student enters fourth and fifth grade. This finding is consistent with other indications that in American education problems begin during the middle years of schooling. According to the National Assessment of Educational Progress (NAEP), students in fourth grade are performing at higher levels than their counterparts a generation ago. Gains over the past two decades have been particularly large for students from minority groups. But NAEP data also show that, after fourth grade, initial gains disappear. In fact, students nationwide learned less between fourth and eighth grade in the 1990s than they did in the '70s. The slippage seems even greater in high school. Similarly, international comparisons reveal that U.S. fourth-grade students keep up in science and math with most of their peers abroad (though not with the Japanese and Koreans). But by eighth grade U.S. students trail those in all other leading industrial nations, and by twelfth grade they fall to near the bottom of all participating countries. If the problems in American education develop in the middle years of schooling, perhaps it is at this point that the advantages that come with school choice are particularly evident.

Of course, the findings from New York City are simply first-year results. Our evaluation is scheduled to continue for two more years, and only time will tell whether the initial gains are maintained in the future. It remains to be seen whether school choice, if generalized to a larger population, will yield comparable gains. But it does seem time to begin larger-scale experiments.

An Historical Perspective

The unique quality of the SCSF pilot program can be appreciated by situating its evaluation within the long-running controversy over research on public and private schools. In the early 1980s two nationwide studies, one conducted by a team headed by sociologist James Coleman, the other conducted by John Chubb and Terry Moe, reported that high school students learned more in private than in public schools. School choice critics questioned the findings from both studies on the grounds that the students in private schools came from families more committed to their children's education.

Both studies had anticipated this argument by taking into account family background characteristics, such as education and income. But critics say that no amount of statistical tinkering can ever fully correct for the selection effect: families who pay to send their child to private school are almost certainly more involved in and concerned about their child's education, even after adjusting for demographic characteristics. Even the Coleman research team admitted, the "difference between parents, by its very nature, is not something on which students in public and private schools can be equated" in a statistical analysis.

Beginning in the late 1980s, a number of publicly and privately-funded school choice pilot programs began providing researchers with opportunities to consider the question anew. Educational outcome information is currently available from programs in San Antonio, Indianapolis, Milwaukee, and Cleveland. In the next few years, still more information will become available not only from New York City but also from other pilot programs that are getting underway in many other cities, including Washington, D.C., Dayton, and San Antonio.

These new pilot programs provide new oppor-

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tunities to find out whether students learn more when families are given a choice of school. For one thing, differences in family background have been reduced, compared to the national surveys mentioned above, because most of these programs are limited to inner-city children from low-income families. More importantly, from a research perspective, these scholarships are often awarded by lottery whenever the number of applicants exceeds the number of scholarships available. Because a lottery is used to award the scholarships, these programs can be evaluated by means of an RFT.

Unfortunately, many of the school-choice pilot programs conducted thus far do not permit an RFT. Privately funded programs in Indianapolis and San Antonio admitted students on a first-come, first-serve basis. Such admission procedures have a fairness of their own, and they are easy to administer, but any findings from these programs may be contaminated by the selection effect. After all, those families who are quick, clever and well-connected enough to get a first-come, first-serve scholarship are likely to have other attributes that favorably affect their child's educational attainment. Nonetheless, test score results from these experiments are mainly positive. For example, the scores of students participating in the school choice program in San Antonio increased between 1991-92 and 1993-94, while those of the public-school comparison group fell. In Indianapolis, students in private schools did better than students in public schools, particularly in grades six through eight.

All in all the evidence that school choice enhances achievement of low-income students has now become quite substantial.

Inconclusive Cleveland

Much the same can be said for the disparate findings that have emerged from research on the state-funded pilot program that began in Cleveland in the fall of 1996. Although the state required that the scholarships be awarded by lot, various legal, political, and administrative problems made it impossible to gather data necessary to conduct an RFT. As a result, both the research team that I headed and other researchers were forced to rely upon less precise research techniques.

In 1997 my colleagues and I found that students attending the Hope schools, two newly established choice schools serving 25 percent of the students previously attending public schools, gained 9 national percentile rank points in math and 6 percentile points in reading. But because no control group was available for comparison purposes, we cannot be sure that a comparable group of students would not have achieved similar gains in Cleveland's public schools.

Another evaluation by Indiana University's School of Education found no programmatic effects on the test scores of 94 third grade choice students. The Indiana University evaluation suffers from a number of limitations:

1. The study analyzed only third-grade test scores; no information is available for students in kindergarten, first or second grades.

2. To control for student achievement prior to the beginning of the scholarship program, the evaluation used implausible second-grade scores collected by the Cleveland Public Schools before the beginning of the choice experiment when students were still in public school. These dubious second-grade scores tell us that students from central-city, low-income, largely one-parent families were performing in second grade, on average, at approximately the national average. Yet in an independently proctored test administered one year later, the same students scored, on average, 40 percentile points in reading. Clearly, the previous second-grade test scores were inflated.

3. The evaluation excluded Hope school students from the evaluation, despite the availability of comparable test-score data.

In the end, firm conclusions cannot be drawn from the studies of the scholarship program in Cleveland. In neither our research nor that of the Indiana evaluation team was it possible to compare similar groups of students by means of an RFT.

The state-funded program begun in Milwaukee in 1990 also required that scholarships be awarded by means of a lottery, if applicants exceeded places available. In this case, the lottery was successfully conducted; as a result, data are available from an RFT for the first four years after the program was started (school years 1990-91 to 1994-95). Unfortunately, no data are available after 1995.

The original evaluation of the Milwaukee choice program did not carefully analyze the data from the randomized field trial but instead compared students from low-income families with a cross section of public school students whose parents were motivated enough to return a mailed questionnaire. Although this research reported no systematic achievement effects of enrollment in a private school, its findings are problematic because the study compared choice students with public-school students enjoying much more advantaged families.

When these data were released to the general public, my colleagues and I analyzed the data from the RFT. Although the data collection was less complete in Milwaukee than in New York City, making the findings less definitive, they are nonetheless of interest. We found that enrollment in

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the program had about the same modest effects for all students (regardless of grade) during the first year of the program, just as was observed in New York City. But we also found that choice students scored much higher in years three and four (Figure 2). The differences in these years were as much as one quarter of a standard deviation in reading and one third of a standard deviation in mathematics. Once again, these gains are large enough that, if similar gains are made in the remaining years of education, they have the potential of bringing minority students up to the level currently achieved by white students.

That choice students did not demonstrate improved performance until the third and fourth years is quite consistent with a common-sense understanding of the educational process. Choice schools are not magic bullets that transform children overnight. It takes time to adjust to a new teaching and learning environment. The disruption of switching schools and adjusting to new routines and expectations may hinder improvement in test scores in the first year or two of being in a choice school. Educational benefits accumulate and multiply with the passage of time. As Indianapolis choice parent Barbara Lewis explains the process: "I must admit there was a period of transition, culture shock you might call it. He had to get used to the discipline and the homework. . . . But Alphonso began to learn about learning, to respect the kids around him and be respected, to learn about citizenship, discipline, and doing your lessons. . . . My son has blossomed into an honor roll student."

Note to Government: More Choice

School choice programs are too recent to provide information on their effects on college attendance, though the private school choice program in Milwaukee (PAVE) reports that 75 percent of those who have graduated from high school have gone on to college. More systematic information on the effects of attendance at a Catholic high school are contained in a recent University of Chicago analysis of the National Longitudinal Survey of Youth, conducted by the Department of Education, a survey of over 12,000 young people. Students from all racial and ethnic groups are more likely to go to college if they attend a Catholic school, but the effects are the greatest for urban minorities. The probability of graduating from college rises from 11 to 27 percent, if such a student attends a Catholic high school.

The University of Chicago study confirms results from two other analyses that show positive effects for low-income and minority students of attendance at Catholic schools on high school completion and college enrollment. As one researcher summarized one of these studies, it "indicates a substantial private school advantage in terms of completing high school and enrolling in college, both very important events in predicting future income and well-being. Moreover . . . the effects were most pronounced for students with achievement test scores in the bottom half of the distribution."

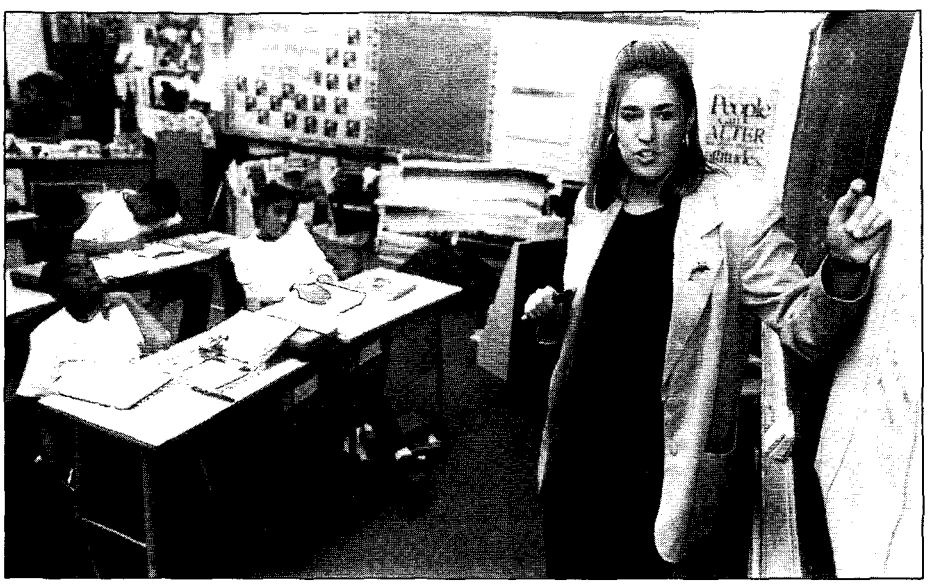

Photo by David Joles

Lori Schaefer teaches 4th graders at the Urban Day School. It was one of the first schools to open its door to students in Milwaukee's choice program.

All in all the evidence that school choice enhances the achievement of low-income students has now become quite substantial. Although additional RFTs are desirable, the results from the first year of the New York City evaluation suggest that, at least for children in grades four and five, there are clear benefits for low-income minority students that come from attendance in private schools.

The results from New York tend to confirm findings from a wide variety of previous studies that used less definitive research methods. Only time will tell if the choice students in this program score much higher in later years as they did in Milwaukee.

If Congress regards the research evidence sufficient to justify the $1.1 billion federal intervention to reduce class size appropriated in 1998, then the evidence is equally sufficient to justify comparable state and federal expenditures on school-choice experiments.

Paul E. Peterson *is the Henry Lee Shattuck Professor of Government and the director of the Program on Education Policy and Governance at Harvard University.*

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Public School Benefits of Private School Vouchers

Across the country, school choice programs are compelling public schools to improve

By Nina Shokraii Rees

Though still in their infancy, school choice programs have improved overall student academic achievement in public schools. Evidently, competition is good for learning. Programs that include religious schools and those limited to public institutions alone have both demonstrated that choice leads to higher quality education. When public schools are faced with the possibility of large student transfers, and a corresponding loss of funding, they have shown a willingness to make improvements both in how and what they teach.

The research backs these findings. Furthermore, in places where school choice exists, variety in education has done little to undermine the common school ideal that promises to teach all students equally in a like and equally available setting. In fact, studies show that the ideal is more in evidence in private schools—especially in the inner-city—than in the public school system. Competition is the key.

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Consider the results of the well-known public school choice experiment in New York City's District 4. In 1974, District 4 began allowing teachers in East Harlem's junior high schools to redesign and create new public schools and allowed parents to choose the schools their children would attend. Before long, the program was credited with raising reading scores and lifting the district from last place in 1973 to 15th in 1987 among New York City's 32 school districts. The school choice plan also attracted white students to the largely minority school district. Ten years later, in October 1997, a report by Paul Teske and Mark Schneider of the State University of New York confirmed earlier findings. The researchers found greater improvements in the district's math and reading test scores than those registered in New York's other 31 community school districts (where choice is not as available). Teske and Schneider also found that the increased number of choice schools in District 4 correlated directly with increases in math and reading scores.

The exodus of students like Tiara Kennedy from the troubled Giffen School in Albany, N.Y., spurred district leaders to improve educational quality.

Photo by Michael Greenlar

On a much smaller scale, similar results occur when school choice involves private schools—although it is too soon to assess academic outcomes.

In Milwaukee—the site of the first publicly-sponsored school choice program—choice prompted all nine members of the Milwaukee public school board to sign a fundraising letter on September 10, 1998, supporting Partners Advancing Values in Education (PAVE)—a private scholarship program that makes choice an option for many families in Milwaukee. "Parents have the right and responsibility to determine the course of their children's education," the board members state in the letter. "[A]s members of the Board of MPS, our task is to support them in carrying out that responsibility," they continue. "MPS can provide quality education for all our children. . . . But until we make it happen, we ask that you contribute to PAVE's scholarship fund, both for the sake of the thousands of children immediately at risk and for the sake of public education reforms in Milwaukee."

Albany's Brighter Choice

Private programs like PAVE can, in fact, benefit public schools. In 1997, Virginia Gilder offered vouchers of up to 90 percent of the cost of private school tuition (up to $2,000 a year) to parents in Albany, N.Y. whose children attended Giffen Memorial Elementary School. Gilder's vouchers, known as "A Brighter Choice Scholarships (ABCS)," could be used for a minimum of three years and a maximum of six for each student. The rationale for the program was simple: Giffen had the worst pupil performance scores of any school in the region and had repeatedly reported that over 50 percent of its student body was not reading at state-set "minimum competency levels." In addition, 96 percent of Giffen Elementary's students were on the federal free-lunch program. By September 1997, 20 percent of the student body, including the child of the president of Giffen's Parent Teacher Association, had used the scholarships to attend a private school.

Not all the students who left Giffen remained in the private school of their parents' choice, however. The private sector can be more selective and dismiss problem students more readily than most public schools. Since most Giffen students were already underperforming in school, it was fair to assume that some would not meet their private schools' more stringent demands. In fact, of the 11 ABCS students who returned to Giffen, only 2 were suspended from their private school for disciplinary reasons, while one was suspended for being absent from school for over 30 days.

Meanwhile, this exodus sent a much-needed wake-up call to Albany public school officials who immediately took steps to reform Giffen Elementary. Lonnie Palmer, Albany's superintendent of schools, transferred Giffen's principal and replaced her with a new principal and two assistant principals—one of whom was specifically commis-

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sioned to oversee and boost academic performance. Palmer soon began interviewing each of the school's teachers and found cause to sack 20 percent of them. To help bring about faster change, the Albany Urban League provided a $100,000 grant to help Giffen students advance in reading. This year, the school scrapped its language arts program and replaced it with "Success for All," a Johns Hopkins University program that boasts particularly high success rates among low-income students. As Annie Pope, the head of the Albany Branch of the NAACP, told *The New York Times*, "[The ABCS program] has made [the school bureaucrats] take a look at what was happening, or not happening, at Giffen, and take actions they may not otherwise have taken."

The Evidence Supports Choice

Research shows that the long-term positive effects on East Harlem's District 4 or the over-night impact of ABCS on Giffen needn't be isolated examples of how school choice can improve the overall quality of public education. Caroline Hoxby, an assistant professor of economics at Harvard University, has looked at two traditional forms of school choice in various parts of the country.

Using Department of Education data, Hoxby compared metropolitan districts where parents, through residential decisions, can choose from a range of public schools to districts where parents have limited choices. She also compared districts where parents could easily afford to send their children to private schools (and where there were many public and private schools to choose from) with districts with less or no public/private school competition. In areas where public schools compete heavily for the same students, she found overall student test scores rose 3 percentile points, students' wage gains after graduation increased by 4 percent, and the probability of college graduation increased by 0.4 percent.

In areas where public and private schools compete for the same students, Hoxby's research showed even more pronounced academic improvements. Among students transferring from public to private school, Hoxby found a 12 percent increase in future wage gains and a 12 percent increase in the probability of college graduation. Hoxby also found an 8 percentile point improvement in the test scores of the students in these areas *who remained in public schools.* From this research, Hoxby concludes that public schools respond positively to competition by improving curriculum.

Any one school's reaction to the challenges of school choice depends a great deal on the fiscal rewards and penalties attached to the number of students they gain or lose. In areas where several public schools vie for the same students, the overall per-pupil expenditures decreased by an astounding 17 percent. Whereas even those areas with high private school competition, but where the public schools suffer no financial loss for losing a student, public school spending remained the same. These effects are most pronounced in school districts that rely heavily on local property taxes, because the threat of student desertion provides a strong financial incentive to improve performance. Whether the same results can be found in school districts that now allow public funds to follow the child to a public charter or private school of choice remains to be seen. But Hoxby's analysis offers substantial evidence that we should expect similar results from other forms of competition in education.

Select Sources on Choice

Blum Center for Parental Freedom in Education • Distributes information regarding school choice efforts nationwide.
Phone: (414) 288-7040; Web site: www.mu.edu/blum
Brookings Institution, Center for Public Policy Education • Provides in-depth research and analysis on school choice and education reform. Phone: (202) 797-6000; Web site: www.brookings.org
Center for Education Reform • Serves as an information broker for national reform. Phone: (800) 521-2118; Web site: www.edreform.com
CEO America • Supplies information on private scholarship programs nationwide. Phone: (501) 273-6957; Web site: www.ceoamerica.org
Children's Scholarship Fund • Supplies information on private scholarship programs nationwide.
Phone: (800) 444-9662; Web site: www.scholarshipfund.org
Milton and Rose Friedman Foundation • Promotes education reform through competition and choice.
Phone: (317) 681-0745; Web site: friedmanfoundation.org
Harvard's Program on Education Policy and Governance • Provides in-depth research on the impact of inner-city scholarship programs.
Phone: (617) 495-7976; Web site: hdc-www.harvard.edu/pepg/index.htm
Heartland Institute's School Reform News • Distills local and national headlines with reform-minded analysis in a monthly online newsletter.
Phone: (312) 377-4000; Web site: www.heartland.org/education/whatis.htm
Heritage Foundation • Tracks school choice developments in each state and provides analysis of federal education reform initiatives.
Phone: (202) 546-4400; Web site: www.heritage.org/schools
Institute for Justice • Litigates educational choice cases.
Phone: (202) 955-1300; Web site: www.ij.org
Thomas B. Fordham Foundation • Publishes in-depth analysis on education reform. Phone: (202) 223-5452; Web site: www.edexcellence.net

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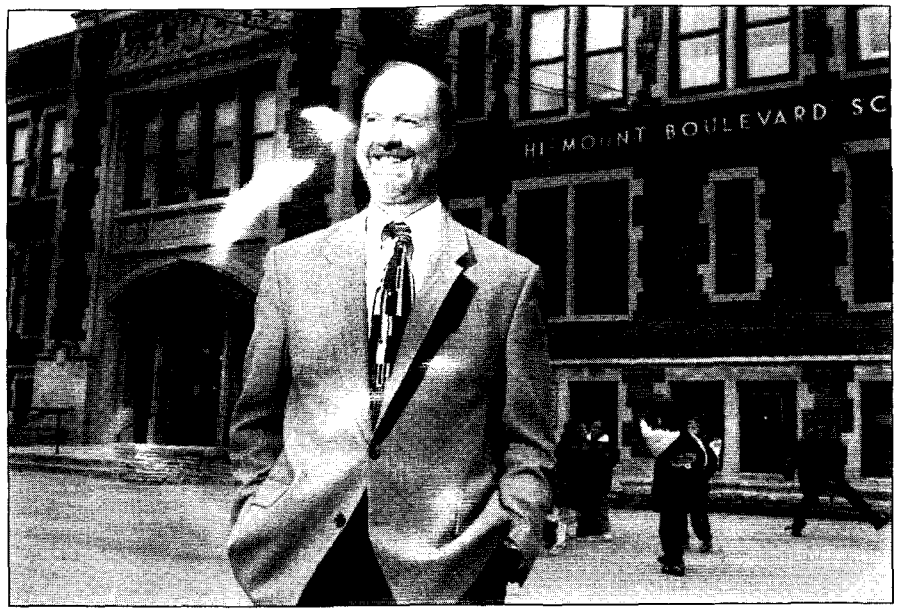
Cooperation not Competition

Today, some of the most passionate defenders of public education are engaging the private sector to solve public school problems. Rod Paige, the superintendent of schools in Houston, Texas, is a public school advocate who sees that private schools can help rid public school overcrowding. When Houston voters rejected a $390 million bond measure in May 1996 to build 15 new schools and renovate 84 others, Paige turned to the private sector. He suggested that some students from his 65 overcrowded schools attend local private schools at district expense. Soon thereafter, the Houston school trustees voted unanimously in favor of his plan. Board President Don McAdams told the *Houston Chronicle*, "the more freedom you give people, I think, the more enthusiastic they are going to be about public education."

As to whether school choice will destroy the common school ideal, many private schools, especially Catholic schools in the inner-city, offer the best examples of the ideal in action. Catholic schools are not only better equipped and have a proven record of teaching inner-city students at a nominal cost, but they provide better racial and economic diversity.

Recently, Jay Greene, assistant professor of government at the University of Texas, looked closely at diversity in public and private schools. His analysis of the 1992 National Education Longitudinal Study suggests that private schools are in fact doing a better job integrating students of different races than public schools. Greene found that 30 percent of high school seniors in private schools are in well-integrated classrooms, as opposed to 20 percent of seniors in public schools. He defines "well-integrated" as a class that has between 15 percent and 35 percent minority representation, where the national average is 25.6 percent. Similarly, more public school seniors attend school in highly segregated classrooms: 37 percent, as opposed to 30 percent of seniors in private schools. Here, he defines "highly segregated" as less than 5 percent or more than 95 percent minority representation in a class.

Greene also studied civic values in the two settings and found that private schools contribute to higher degrees of political participation, social capital, and tolerance than do public schools. Adjusting for differences in backgrounds, he found that people with 12 years of private education would vote 70 percent of the time in presidential elections, while those with no private schooling voted 55.7 percent of the time. He also found that 30 percent of those with 12 years of private education would join a civic organization, compared with 22 percent of those with no private education. And 50 percent of those with at least 12 years of private schooling would tolerate letting members of their least liked group hold a rally, run for public office, or teach in schools, compared with 40 percent of those with no private education.



Dr. Spence Korte (above), principal of the Hi-Mount Elementary School in Milwaukee, Wis., says he is not afraid of competing with private schools in a voucher system. And Superintendent of Houston's schools, Rod Paige (right), believes private schools in his district are assets, not obstacles.

These findings are starting to take hold. All across the nation school choice is gathering momentum, not because people have given up on public education, but because they realize that, in the words of Howard Fuller, former Superintendent of Milwaukee Public Schools, "a school does not need to be run by government in order to be 'public.'" So far the evidence suggests that, when tried, school choice improves the overall quality of education for public and private schools alike. Real supporters of public schooling no longer oppose real school choice.

Nina Shokraii Rees *is an education policy analyst at The Heritage Foundation.*

Photo of Dr. Korte by David Joles; photo of Mr. Paige courtesy of Houston Independent School District

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A Model of *Cultural Leadership*

The Achievements of Privately Funded Vouchers

By Adam Meyerson

These visionaries are among the great conservative heroes of our time: J. Patrick Rooney. James R. Leininger. Michael S. Joyce. John T. Walton. Theodore J. Forstmann. The privately-funded voucher movement they have built is a model of strategic philanthropy. It is also one of this decade's most dramatic examples of effective political and cultural leadership.

The architects of the private voucher movement realize something that all too many conservatives have inexplicably forgotten in the 1990s: *America is a free country.* You do not have to wait for the politicians to advance a conservative reform agenda. You can take leadership into your own hands. You can create the institutions that will reshape the political and cultural landscape: the politicians will respond.

The privately-funded voucher movement is building a powerful constituency for school choice—black and Hispanic parents. Despite ferocious criticism of vouchers by the NAACP and most black political leaders, 65 percent of blacks between the ages of 26 and 35 support the use of taxpayer funds to send children to private and religious schools, according to a 1998 poll by the Joint Center for Political and Economic Studies. Privately-funded vouchers have played a key role building this support.

Photo by Ericka McConnell

Privately-funded voucher programs are focusing public attention on the merits of Catholic, Baptist, Lutheran, Muslim, Jewish, and other religious schools that, despite shoestring budgets, are giving superior education to poor children in the same neighborhoods as their local dead-end public schools. A decade ago, it was considered politically unthinkable to push for publicly funded vouchers that could be used at religious schools. Today, both Wisconsin and Ohio have enacted such programs, financing vouchers averaging $4,900 for up to 15,000 low-income children in Milwaukee, and $2,250 for up to 4,000 children in Cleveland.

The privately-funded voucher movement is also beginning to change the mindset of parents, showing how they can take responsibility for their chil-

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dren's education. An important feature of most private voucher programs is that they pay only partial tuition, usually half. Parents have to pay the rest, either in cash, or, if the school agrees, in volunteer services. This may sound harsh for families whose average income is $18,000. But this "hand up, not a handout" strategy, as Patrick Rooney has described it, makes a tremendous difference in opening educational opportunity. When parents have to scrimp and save to pay tuition, they think of education as an investment. They take charge. They pay attention to whether they are getting their money's worth, to what school will be best for their children. And children take school more seriously when they know their parents are sacrificing for the sake of their future.

J. Patrick Rooney

Rooney was the pioneer in privately-funded vouchers. The chairman of the Golden Rule Insurance Co. set the tone for most of the movement when he established the Educational Choice Charitable Trust in 1991 in Indianapolis. Altogether the Golden Rule program has spent $5.7 million on vouchers for K-8 schools; today it offers half-tuition scholarships to over 1,700 Indianapolis children, awarded by lottery, with another 4,200 on the waiting list.

Rooney limited participation to lower-income families, and for administrative simplicity, to children eligible for free or reduced-price lunches as part of the federal school lunch program. This model, which has been followed by almost all other private programs, has been significant for two reasons. Critics have sometimes accused vouchers of being a subsidy for upper-income and middle-class families who could already afford private schools. The private voucher movement turned this argument upside-down by focusing voucher resources on poor children in inner cities. Private programs also called public attention to the children who could benefit most immediately from vouchers. Universal voucher initiatives have been defeated in state after state in the 1990s, largely because they attracted little support from suburbanites who live in the public school districts of their choice and are reasonably happy with them. Rooney's policy has kept the choice idea alive by focusing attention on children demonstrably hurt by failing public schools their parents did not choose.

Rooney also protected the freedom of both families and schools. Families that win a voucher can select any private or religious school of their choice. Schools in turn are free to make their own admissions decisions, and to expel students if they misbehave. Most schools that take vouchers admit almost all applicants. Still, one reason private schools outperform public schools is that they can exclude students who aren't suited for the school's approach. That is a benefit of a free society; it is nothing to apologize for, and Rooney's program doesn't.

In 1991, J. Patrick Rooney blazed the trail for privately-funded vouchers with his Indianapolis fund.

Photo courtesy of the Golden Rule Insurance Company

James R. Leininger

James Leininger read about Rooney's program in a *Wall Street Journal* editorial by John Fund. "Let's start that in San Antonio," the founder of the medical supply company Kinetic Concepts Inc., told Fritz Steiger, then president of the Texas Public Policy Foundation. In 1992 they started the Children's Education Opportunity Foundation, offering scholarships to low-income children in San Antonio. And then, with the help of the Walton Family Foundation, Leininger and Steiger spread

An important feature of most private voucher programs is that parents have to pay partial tuition.

Rooney's idea throughout the country. They established CEO America, based in Bentonville, Arkansas, with Steiger as president, to provide matching grants and support services to new voucher programs from Chattanooga to Dayton to Los Angeles. The movement blossomed thanks to their efforts. Through this school year, private programs have spent $61 million; this year privately-funded vouchers enable over 13,000 children in 39 cities to go to the school of their choice.

One of the most impressive new programs is the School Choice Scholarships Foundation of New York City, funded by leading Wall Street investors including Bruce Kovner, Roger Hertog, Thomas Tisch, Richard Gilder, and Peter Flanigan, a long-time benefactor of scholarship funds for Roman Catholic schools. Thanks to its careful ex-

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perimental design (as Prof. Paul Peterson describes in this issue on p. 10), the SCSF program has offered the best social science evidence of the benefits of vouchers for low-income students.

In 1998, Leininger and CEO America announced a breathtaking experiment for evaluating how vouchers can help poor children. They committed up to $50 million, over 10 years, to give every single low-income child in an entire school district access to any religious, secular private, or public school in the San Antonio area. The students still have to be admitted on their own merit. They chose the overwhelmingly Hispanic Edgewood School District in San Antonio, where 94 percent of the 14,000 students are eligible for the vouchers.

Leininger and Steiger say they were inspired by the bold example of Virginia Gilder. In 1997 the New York philanthropist offered to pay the private school tuition of every one of the 458 students at Giffen Elementary, the worst-performing school in Albany, NY. About 20 percent of the students are now taking advantage of her offer, and as Nina Shokraii Rees reports elsewhere in this magazine, (see p. 16), Giffen is taking some long-overdue steps to improve its discipline and teaching. Over time, the Giffen experiment will shed light on whether competition from vouchers can lead to sustained improvement in a single public school.

With their 10-year commitment to Edgewood students, Leininger and Steiger are taking this experimental approach even further. They want to know whether private schools will expand, and new private schools emerge, once vouchers are offered on a sustained basis. It remains to be seen whether the public school system will improve in response to competition and whether population patterns will change. Leininger notes happily that an Edgewood apartment complex is already advertising to prospective renters that their children would be eligible for vouchers. Should vouchers make the Edgewood district more attractive to live in, urban renewal will be an additional benefit of school choice.

Michael S. Joyce

Michael Joyce, president of the Lynde and Harry Bradley Foundation, has achieved the greatest public policy success of any of the private-voucher philanthropists. The aptly named PAVE (Partners Advancing Values in Education) financed a scholarship program that paved the way for Wisconsin's publicly-funded voucher program now available to 15,000 low-income children in Milwaukee. Of the $20 million PAVE spent on vouchers from 1992 to 1998, over $8 million was provided by the Bradley Foundation.

PAVE made two great contributions to the cause of publicly-funded vouchers in Milwaukee. In 1990 the Wisconsin legislature enacted a modest parental choice program for low-income students in Milwaukee, but it was available only for the tiny number of private nonsectarian schools in the area, and only for students transferring out of public schools. In sharp contrast, the PAVE voucher program started in 1992 did not exclude the

Choice Through Charity

Nearly 40 cities have private voucher programs in operation this year, serving over 13,000 chlidren, with more than 44,000 others on waiting lists. CEO America and the Children's Scholarship Fund (CSF) are clearinghouses for scholarship information and funding with affiliates across the nation. Starting in September of 1999, 35,000 new scholarships will be offered by CSF. New Orleans, Los Angeles, Kansas City, Philadelphia, Dallas, Chicago, Minneapolis/St. Paul, Miami, New York, and the states of Michigan and Arkansas, each will be receiving 1,250 new scholarships or more. Below is a partial list of existing charitable funds opening opportunity for low-income children.

National Offices:
CEO America, (501) 273-6957, www.ceoamerica.org
Children's Scholarship Fund, (800) 805-5437, www.scholarshipfund.org

Local Offices:
Albany, N.Y.: A Brighter Choice Scholarships, (518) 383-2977
Hope through Education, (518) 672-5606
Atlanta, Ga.: Georgia Community Foundation, (770) 521-0523
Battle Creek, Mich.: The Educational Choice Project, (616) 962-2181
Birmingham, Ala.: Students First, (205) 592-3773
Buffalo, N.Y.: The BISON Fund, (716) 858-5460
Chicago, Ill.: The FOCUS Fund, (847) 256-8476
Dallas, Tex.: Children's Educational Fund, (972) 298-1811
Dayton, Ohio: Parents Advancing Choice in Education, (937) 229-4771
Indianapolis, Ind.: Educational CHOICE Charitable Trust, (317) 297-4123
Jersey City, N.J.: Jersey City Scholarship Fund, (973) 497-4282
Louisville, Ky.: School CHOICE Scholarships, Inc., (502) 254-7274
Memphis Tenn.: Memphis Opportunity Scholarship Trust, (901) 767-7005
Miami, Fla.: Miami Inner City Angels, (305) 275-1493
Milwaukee, Wis.: Partners Advancing Values in Education, (414) 342-1505
Minneapolis, Minn.: KidsFirst Scholarship Fund, (612) 573-2020
New York, N.Y.: School Choice Scholarships Foundation, (212) 333-8711
Philadelphia, Pa.: Partnership for Educational Choice, (215) 731-4132
San Antonio, Tex.: CEO San Antonio, (210) 614-5730
CEO Horizon (210) 614-0037
St. Louis, Mo.: Gateway Educational Trust, (314) 721-1375
Washington, D.C.: The Washington Scholarship Fund, (202) 842-1355

Sources: CEO America, Washington Scholarship Fund, and Children's Scholarship Fund

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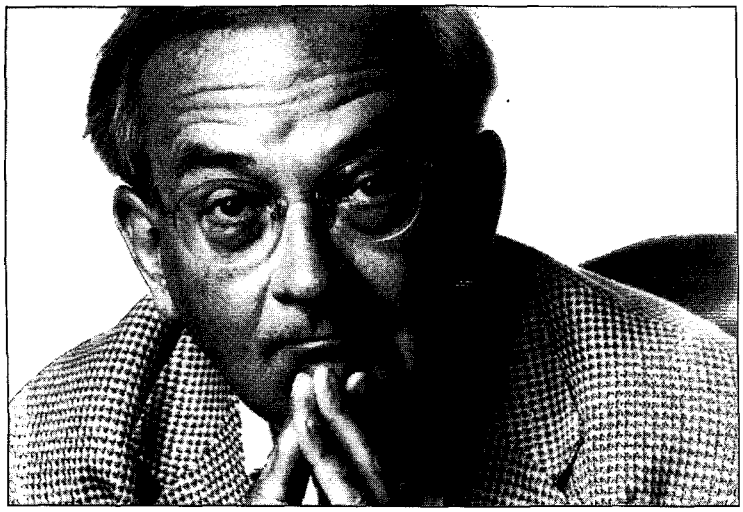


Michael Joyce helped forge a broad, multiracial, bipartisan coalition for school choice in Milwaukee.

much larger number of private religious schools, and it did not discriminate against low-income families that were already sacrificing to send children to private schools. Parents responded overwhelmingly to the PAVE initiative; in 1992 over 4,000 students applied for PAVE assistance. And parents began to mobilize on behalf of a much larger, less discriminatory, public voucher program.

The Wisconsin legislature listened to these parents and enacted in July 1995 the first publicly-funded voucher program in the United States that included religious schools. In August, however, just days before school was to start, the Wisconsin Supreme Court issued an injunction against the program. Thousands of students who had signed up and secured admission to private school suddenly had no school to go to. PAVE sprang into action again, establishing an Emergency Fund that provided scholarships for most of the children denied publicly-funded vouchers they had been counting on.

A broad multiracial, bipartisan coalition, including Gov. Tommy Thompson, Mayor John Norquist, former Milwaukee school superintendent Howard Fuller, Messmer High School principal Brother Bob Smith, talk show host Charles Sykes, and *Milwaukee Community Journal* editor Mikel Holt, kept up the drumbeat for school choice.

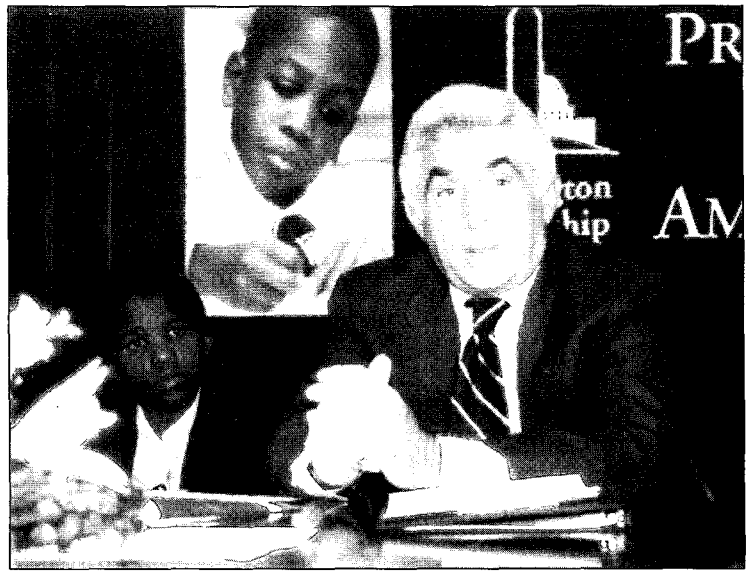
But the best spokesmen were the low-income parents themselves. Hundreds of them staged rallies in front of the state Supreme Court to fight for their right to direct the education of their children. As Joyce puts it, "The underlying premise of the voucher is recognition by the state of the decision-making authority of the parent. The parent is by nature the primary educator of the child." It was the parents of Milwaukee, energized and empowered by privately-funded vouchers, who convinced the Wisconsin legislature to sustain and expand the voucher program in the face of heated opposition from defenders of the education status quo.

The PAVE-Bradley strategy was finally vindicated in June 1998, when the Wisconsin Supreme Court upheld the constitutionality of the voucher program for Milwaukee children. Today 6,300 Milwaukee schoolchildren are using public vouchers to attend private and religious schools their families have chosen.

Forstmann and Walton

Meanwhile, Ted Forstmann and John Walton are reshaping America's cultural landscape. In June 1998 Forstmann, the chairman of Gulfstream Aerospace and co-founder of the investment firm Forstmann Little & Co., teamed up with Walton, a Wal-Mart heir who has long been active in education reform, to launch the Children's Scholarship Fund. Together they pledged $100 million in challenge grants for voucher programs, and announced they would be recruiting local partners to match their contributions. By early December 1998, they had received over $75 million in matching contributions, and established partnerships in 37 cities and three states (many of them with voucher programs nurtured over the years by CEO America). This will be enough to finance scholarships for 35,000 children for four years beginning in September 1999.

The Children's Scholarship Fund will announce its lottery winners in mid-April 1999. The announcement will accelerate momentum for education reform at the local, state, and national lev-



Ted Forstmann is co-founder of the Children's Scholarship Fund, which is making 35,000 vouchers available in 1999.

Photo of Mr. Forstmann courtesy of the Washington Scholarship Fund;
Photo of Mr. Joyce courtesy of the Lynde & Harry Bradley Foundation

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els. If recent precedent is any indication—20,000 low-income children applied for 1,200 scholarships in New York last year; over 7,500 children applied for 1,000 scholarships in Washington, D.C. earlier this year—it is likely that hundreds of thousands of low-income children will apply for the 35,000 scholarships. That is what people in the marketing business call demand. Those children's parents have names, addresses, and phone numbers. They are waiting to be mobilized as a pressure group for improving education. Their sheer numbers will refute those who insist that low-income parents simply don't care about vouchers or improving their children's education.

One of the most remarkable achievements of the Children's Scholarship Fund is the way it has reached across ideological lines.

One of the most remarkable achievements of the Children's Scholarship Fund is the way it has reached across ideological lines. President Clinton vetoed voucher legislation for the District of Columbia, but he enthusiastically endorses the Forstmann-Walton venture, as do the mayors of New York, Chicago, and Los Angeles. The CSF national board of advisors includes Martin Luther King III, Rep. Charles Rangel, Gen. Colin Powell, Univision president Henry Cisneros, and Robert L. Johnson, the CEO of Black Entertainment Television.

Forstmann probably couldn't have won their support if he hadn't made it clear that he strongly supports public education and that he isn't pushing for publicly-funded vouchers. But Forstmann says publicly that the cause of our educational problems "isn't money, class size, standards, parents or teachers"; it is "a serious absence of competition." This is a message many people joining forces with CSF aren't used to hearing. And as Forstmann signs up leading Americans across the ideological spectrum, he is going to have a profound influence on our political culture with his message of breaking up the monopolistic structure of education and harnessing "the creative forces of competition to create more excellence in education."

Forstmann's influence on American business may be more far-reaching. The CSF list of community partners reads like a Who's Who of cutting-edge entrepreneurship: Hollywood mogul Michael Ovitz; legendary Silicon Valley venture capitalist Arthur Rock; Nathan Myhrvold, chief technology officer for Microsoft; James Kimsey, the founding CEO of America Online; Dick DeVos, president of Amway; Stanley Druckenmiller, chief investment strategist for George Soros; Peter Lynch, the vice chairman of Fidelity mutual funds. Most of these pacesetters have shied away from conservative political ventures, yet Forstmann has intrigued them with his message of using business principles to help children and radically improve education. Perhaps most important, Forstmann is planting seeds in their imaginations, inviting some of the best minds in Hollywood and Silicon Valley and Seattle and Wall Street to think creatively about how they can help education, and maybe make some money in the process.

A Study in Achievement

Forstmann likes to say that there is no downside to his great experiment. "The worst that can happen is we help 35,000 kids." The potential upside is that it will encourage a new mindset about education. This could take the form of publicly-funded vouchers, of tax credits, of a vast expansion of charter schools, of much more competition between public schools. It could involve eliminating the bureaucratic constraints on public schools, so they have more freedom to compete against private and charter schools. It could involve an explosion of new technologies and for-profit educational enterprises.

A new mindset could also involve a vast outpouring of new charitable resources for private schools and scholarship programs. Charity probably can't be expected to pick up the tab of private education for every low-income child. It would cost $30 billion a year to finance vouchers of $1,500 each for the 20 million children who have signed up for free or reduced-price lunches. But most parents will still prefer to send their children to public school. Ten percent of all low-income children could go to the private schools of their choice at a cost of $3 billion a year. An investment of this magnitude is hardly unimaginable in a country with $150 billion in annual charitable giving.

Most of the architects of the private voucher movement see public policy reform, not charity, as the answer. "Our goal is to put ourselves out of business," says Steiger. Most private voucher providers argue that government has a responsibility to finance educational opportunity, and they insist that this opportunity is best provided by offering parents a choice of private and religious as well as public schools.

Whatever form the new mindset takes, it's likely that K-12 education will enter an extraordinary period of reform and ferment over the next five years. This wouldn't have been possible without the pacesetting leadership of the visionaries of the private voucher movement. Conservatives who want to leave their mark on America should study their achievements again and again.

Adam Meyerson, *vice president for educational affairs at The Heritage Foundation, is the editor of* Policy Review.

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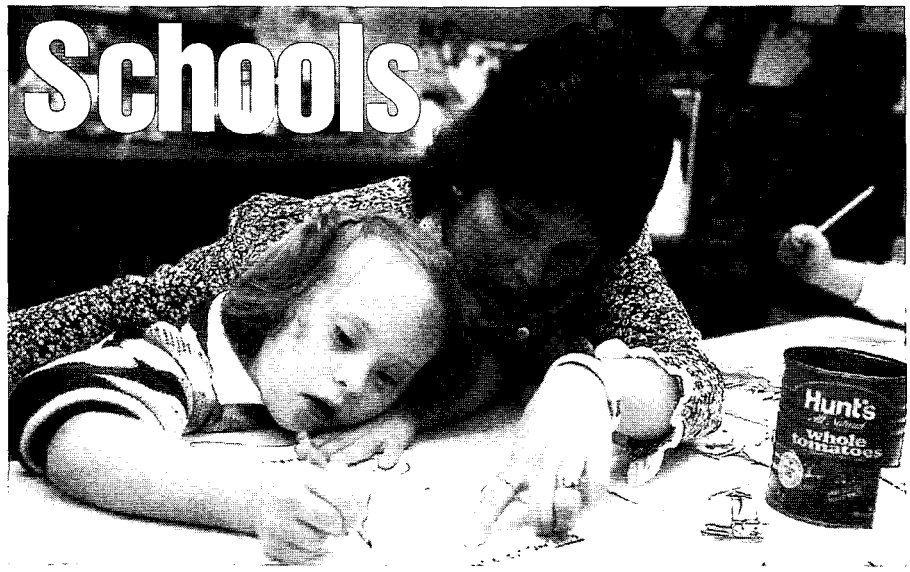
Sending Public School Students to Private Schools



By Jonathan Fox

The untold story of special education

One of the most common arguments against school choice is that it will create a system of privilege that prefers only the easiest students to teach. Opponents of vouchers argue that because public schools are meant to serve children of all backgrounds—including children with disabilities—school choice promises only to harm these students as scarce resources are siphoned off to private schools. If vouchers were adopted on a large scale, so these people claim, the neediest students would only be left behind to suffer neglect in crumbling, deserted schools.

Upon greater scrutiny, this oft-repeated scenario does not hold up. For years, many students with the worst disabilities have attended private schools at partial or even full public expense. Far from abandoning the needs of special education students, the private sector is supplying what the public school system has failed to provide.

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More specifically, public school districts currently foot the bill for more than 100,000 special education students attending private schools at an estimated cost of $2 billion to taxpayers, according to U.S. Department of Education figures and industry estimates. In most of these cases, public schools have come to rely on specialized private schools to educate their toughest disability cases, when doing it themselves would be prohibitively expensive.

"A voucher isn't really the right analogy," says Mike Petrilli, program director of the Thomas B. Fordham Foundation, which supports education reform efforts from a conservative perspective. "It's really closer to contracting, like the Edison Project," the for-profit school management company that manages more than 50 public and charter schools across the nation. "But it makes a lot of sense to contract out this function to a company that can pool its resources."

Public schools have come to rely on specialized private schools to educate their tougest disability cases when they're too difficult to handle.

Petrilli is right. The current set-up can't be called a voucher system, because public school districts are occasionally compelled by the courts to send their students to these schools—whether because of negligence, incompetence, or some other reason. But more importantly, public school officials serve as the gatekeepers during the placement process, such that most parents don't really ever get to make an unencumbered "choice" for their child to attend one of these schools. Of course, some parents with savvy attorneys may be able to swing a private school placement through more aggressive arm-twisting, but many less wealthy parents aren't aware they can so affect the process.

But these differences aside, one important similarity between private special education placements and a larger system of school choice cannot be easily dismissed: school districts have made a market-based decision to contract with these schools because they provide specialized services that public schools cannot easily replicate on their own.

Today, the private special education sector includes more than 3,600 outside providers that educate many of the nation's most difficult disability cases, including large numbers of students with serious emotional disturbances and the more intractable learning disabilities. These schools include both day and residential institutions, some of which operate in a hospital-like setting.

Put in perspective, however, these 100,000 students still amount to a relatively small slice of the large special education population nationally—only about 1.8 percent of the 5.6 million special education students who are mostly served in public schools. Department of Education figures show that 61,608 students attend private special education schools at full public expense, while 65,960 disabled students attend private schools through partial public support. Although perhaps few in number, this small percentage of students consumes 7.3 percent of the $32.6 billion that the Center for Special Education Finance says is spent annually by federal, state, and local governments on special education.

Private special education schools "often have the appearance of being a higher-cost provider relative to public schools, when in fact they may be competitive or even lower cost than the public schools for a given type of student," writes Janet Beales in her 1996 Reason Foundation study, one of the few in-depth reports to examine the field. "The full costs of nonpublic schools are easily identified, whereas the costs of public services are often incompletely reported to due to cross-subsidizing, excluded costs, and other reporting errors."

Placement Disputes

While some states have had subsidized private special education for quite some time, the current state of the industry is traced to the passage of the Education of All Handicapped Children Act of 1975, which effectively created a federal entitlement to education for disabled children. Before then, many disabled students didn't attend school at all or were hidden away from the rest of the school population in questionable and even shocking situations.

The law has since been renamed the Individuals with Disabilities Education Act, or IDEA, but its most basic mandate has not changed: that states provide a "free appropriate public education," or FAPE, individually tailored to each disabled child's needs. Under the current system, school administrators must find and diagnose disabilities, then decide on a case-by-case basis what educational and health-related services are "appropriate" in order for each disabled child to receive an adequate education. Again, school administrators determine whether public schools can provide the needed services or if a private provider should be called in.

Not surprisingly, this process varies wildly from district to district. In fact, a student diagnosed with a significant disability in one district or state may be seen as normal in another. Take Hawaii, for instance: only 7.3 percent of its school-aged children have been diagnosed as disabled, while 14.5 percent of all children in Massachusetts have been classified as having disabilities. The open-ended FAPE provision, which for the most part limits nei-

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Out-Sourcing . . .

When public schools are unable to meet the needs of their special education students, they often contract with private schools. Below are the top 10 states that out-source students, based on the percentage of those who received federal IDEA funding in 1994-95.

	Students in Private Schools	Percent of IDEA Students
Washington, D.C.	687	10.9%
New Jersey	9,370	5.3%
Massachusetts	5,673	4.0%
Rhode Island	826	3.8%
Connecticut	2,268	3.4%
Vermont	272	2.9%
South Dakota	362	2.7%
New York	8,553	2.7%
Illinois	5,554	2.5%
Maryland	1,994	2.3%

. . . Opting-Out

But when parents and school districts disagree about where to educate a special needs child, parents can forego public placement, take only the federal portion of IDEA dollars (about 11 percent), and apply it to the private school of their choice. Below are the top 10 states where parents enrolled their children with partial IDEA funding.

Special Needs Students in Private Schools Receiving Partial Funds, 1994-95

New York	13,912
New Jersey	12,645
Ohio	10,556
Indiana	3,176
Michigan	2,818
Illinois	2,765
Louisiana	1,550
Texas	1,305
Nebraska	1,291
Kentucky	1,252

Source: Department of Education

ther costs nor services, has become a hotbed of expensive litigation. As parents clash with schools in highly-publicized legal battles, the courts have become the testing ground of what services schools are obligated to provide their students. Often, these cases verge into outrageous territory, with the courts ruling that schools must pay big sums for nurses to trail students during the school day or administer complicated medical care as a necessary part of a child's education. Sadly, schools that offer a wide range of services without legal intervention are often financially punished when a flood of disabled students move into their districts to take advantage of the better programs. In some ways it is this pattern that has let the legal system set the course for special education in our schools.

IDEA also requires that each disabled child's education be provided in the "least restrictive environment." This requirement falls in line with the trend toward greater "inclusion" of disabled students among non-handicapped children, one of special education's many brewing controversies. These days, however, outside providers are seen by many parents as more responsive than public schools since they have the specialized resources and a more focused approach to the needs of these students.

In fact, the parents of nearly 66,000 disabled children are currently opting out of the IDEA placement process in exchange for private education that is only partially subsidized by the government. This movement is a clear criticism of public management.

Sometimes, these partial subsidies result from public disagreements over a child's special education placement. Say, for example, that school officials believe their facilities are adequate to educate a child, but that child's parents still find them wanting. In such a case, the public school may invite the parents to use the *federal* share of the cost of their child's education—on average about 11 percent of the total—to underwrite the cost of a private school tuition. Because these placements are still managed by public officials, however, many parents forego even this partial subsidy, accepting the full cost of private education as the price of their individual choice.

Spending Games

So where are private special education schools most prominent and for whom are they most useful? The truth is that little research has been done on special education outcomes or the average state spending per disability in private schools.

In general, students attending specialized private schools tend to have more severe disabilities. Department of Education data from 1991 show that states rely on private providers mostly to serve students with serious emotional disturbance (29,515 students nationally), serious learning disabilities (8,159), multiple disabilities (7,311), and mental retardation (7,172). And according to the U. S. Department of Education, in that same year 55 percent of students with traumatic brain injuries (983) were privately placed.

Several states consistently contract with private schools to provide special education, says Sherry Kolbe, executive director of the National Associa-

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tion of Private Schools for Exceptional Children. Kolbe's group represents more than 800 private special education providers across the nation that serve students with disabilities ranging from epilepsy to spina bifida. Although it's not a voucher system that keeps these institutions in business, the success of private industry and nonprofit groups to establish a beachhead of privatization in special education speaks volumes in support of the claim that markets would evolve under vouchers to serve the neediest students.

Ironically, it turns out, many of the states that do the most contracting with private special education providers normally oppose the use of private school vouchers in education. Those states, mostly in the Northeast, include California, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. The District of Columbia and Puerto Rico also have large percentages of special education students enrolled in private schools, while the South lags in providing such services, Kolbe says.

According to Kolbe, some private special education schools have been around since the turn of the century and have influential community members on their boards. Higher-than-average state investment in such schools isn't a sign of runaway spending, she argues, but a prudent use of resources that often saves money. Greater investment in such schools is a sign of social responsibility, Kolbe argues, and "the states with more identifications are the ones who aren't afraid to say this kid needs extra help."

Still, a person not familiar with the costs of special education may be hit with serious sticker shock. This year in Bergen County, N.J., for example, tuitions range from $19,881 to $39,562 a year for private schools that serve the disabled. This last figure is more than four times the average per pupil expenditure in the state of New Jersey, which leads the nation in per capita public school spending.

Nationally, industry estimates peg the average day tuition at $22,000 and residential tuition at $60,000 for private special education schools that contract with public schools. Meanwhile, annual tuition can be as low as $2,000 at some religious special education schools.

So how could the school choice movement affect special education? Although she does not take a formal position on vouchers, Kolbe thinks more choice in general could benefit both parents and students in the current system.

Too often, she says, local school districts play a cruel game of keepaway with parents that boils down to a concern for money and general distrust of private providers. Just as in bilingual education, schools get money from the state and the federal government for each disabled child, and parting with that money does not come easily to bureaucrats. "Any money they give to our programs, they can't spend in the public schools," Kolbe says. "The main concern is that they might have to pay public dollars for private education," even if private options are more cost-efficient and public schools lack specialized resources.

For example, Kolbe says, public schools hire speech therapists at a higher cost than a private school would pay to give a child more intensive, personalized instruction. Contracted services like these could even be provided on a part-time basis, in situations where private school educators—not for-hire specialists—visit the public schools. "You're basically throwing money away," she argues. "There should be more of a realization that our schools provide one-on-one instruction to help students get past their problems and return to regular schools."

States that contract the most with private special education providers normally oppose the use of private school vouchers in education.

At the same time, while public school administrators have the right to decide what resources are necessary to provide each student's free and appropriate public education, Kolbe says many school leaders go to extreme lengths to keep parents from learning more about private options.

The newly reauthorized IDEA is supposed to lessen the antagonism between parents and school officials, but some observers wonder if it goes far enough. The new law gives parents more say during the legally mandated placement hearings—where their child's placement is first authorized—but nothing ensures that advice will be heeded. The refurbished law also requires mediation in times of dispute, but school leaders have a spotty record when it comes to following the law, some observers point out. "We'll see if it makes any difference," Kolbe says.

On the other hand, giving parents the opportunity to flex real decision-making power in the special education placement process could make it less adversarial. "You could cut down on a great deal of the lawsuits if parents felt they had a stake," says Petrilli of the Fordham Foundation.

Congress is also mulling steps to end the gold-rush atmosphere of special education law by limiting attorney fees to prevailing community wages. Already, it has used Washington, D.C., as its test subject. Included in this year's D.C. appropriations law is a provision that limits attorney fees for special education to $50 an hour, capped at $1,300 per student.

Of course, not everyone is a believer. Robert Wagner, executive director of the 1,500-member

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Education Law Association, worries that encouraging more private outsourcing will open the floodgates to even more claims. Parents who want costly additional services for their children might look harder for them in an environment where a vague law leaves special education programs to be sorted out by attorneys. "It's like a person saying, 'I'm taking Spanish, so I need to go to Spain to learn it,'" Wagner says. "That may be true, but is it entitled under the statute?"

Choice Consequences

Ardent advocates of school choice are just beginning to consider how a wholesale voucher system might affect special education. It is their hope that public and private schools can cooperate to solve several of special education's more nettlesome problems: overdiagnosis of special needs, cost containment, and inclusive classrooms.

According to Department of Education figures, the population of students marked as disabled in public schools continues to mushroom at an alarming rate in relation to overall school population. Meanwhile, the private school special education population has remained steady for the last decade. This single fact has led many to question whether perverse funding incentives are causing public schools to overdiagnose their students as disabled. Would a market in special education continue this trend or act to correct it?

In particular, public schools recently have been criticized for overdiagnosing Attention Deficit Disorder (ADD). Last year, the number of students diagnosed with "other health impairments," which include ADD, jumped an incredible 24.5 percent to 133,354 students nationwide, according to the industry newsletter *Special Education Report*. Would a competitive market in special education really be more accountable? Although private providers generally treat the profoundly disabled, ADD students might be perversely attractive to an open market. If the per-pupil funding for ADD were higher than for other students, but the actual cost to educate them was lower than public estimates, private special education might make a market in these children for itself.

Many have asked whether perverse funding incentives are causing public schools to overdiagnose their students with disabilities.

More favorably, vouchers could limit how much taxpayers must pay to educate the disabled and begin a movement toward cost containment. For planning purposes, private special education administrators would need to know how much funding the government would provide for each disability. Deciding what each disability is worth, however, would be anathema to those advocates for the disabled who put no price on the cost of special education.

Unlike the government, which can afford a whatever-it-takes approach to budgeting, private institutions are constrained by the grim reality of the bottom-line. "It would probably end up looking like a managed health-care plan," Petrilli says, "where an HMO decides how much to pay for each procedure."

Critics charge that vouchers would leave some students behind in an effort to cut costs. Sherry Kolbe of NAPSEC worries that vouchers would never cover the full amount of private school tuitions, but others believe that the industry would likely redesign its cost structure to accommodate local vouchers without sacrificing quality. "A lot of fat in the system is driven by regulations," says one analyst, who spoke on the condition of anonymity since his company does business with local school districts.

Private industry is better at tracking consumer wants and needs. Consequently, vouchers might help settle the debate over inclusion now raging in special education circles.

The practice of inclusion, where disabled students are placed in classes with fully-abled peers, is acclaimed as a way to boost the confidence and academic achievement of disabled students.

While inclusion is heavily supported by the Clinton administration and most advocates for the disabled, the majority of parents are less thrilled, saying the extra attention paid by instructors and classroom assistants to disabled students comes at the expense of their own children. In a recent Phi Delta Kappa/Gallup poll, inclusion was opposed by 65 percent of adults who agreed with the statement that disabled children "should be put in special classes of their own." Even some special education parents are doubtful about inclusion, since regular classroom teachers and their assistants don't always have the necessary training to teach special needs students.

The industry analyst cited above envisions a scenario where voucher-bearing parents of disabled students will effectively hold a referendum on inclusion by choosing whether to stay in public schools or take their business elsewhere to private providers.

In a full voucher system, where the public and private sectors compete to sell the unique strengths of their programs, parents would have a greater opportunity to select what form of education is best for their child.

"It's going to be interesting to see what they choose."

***Jonathan Fox** is a reporter for* Education Daily.

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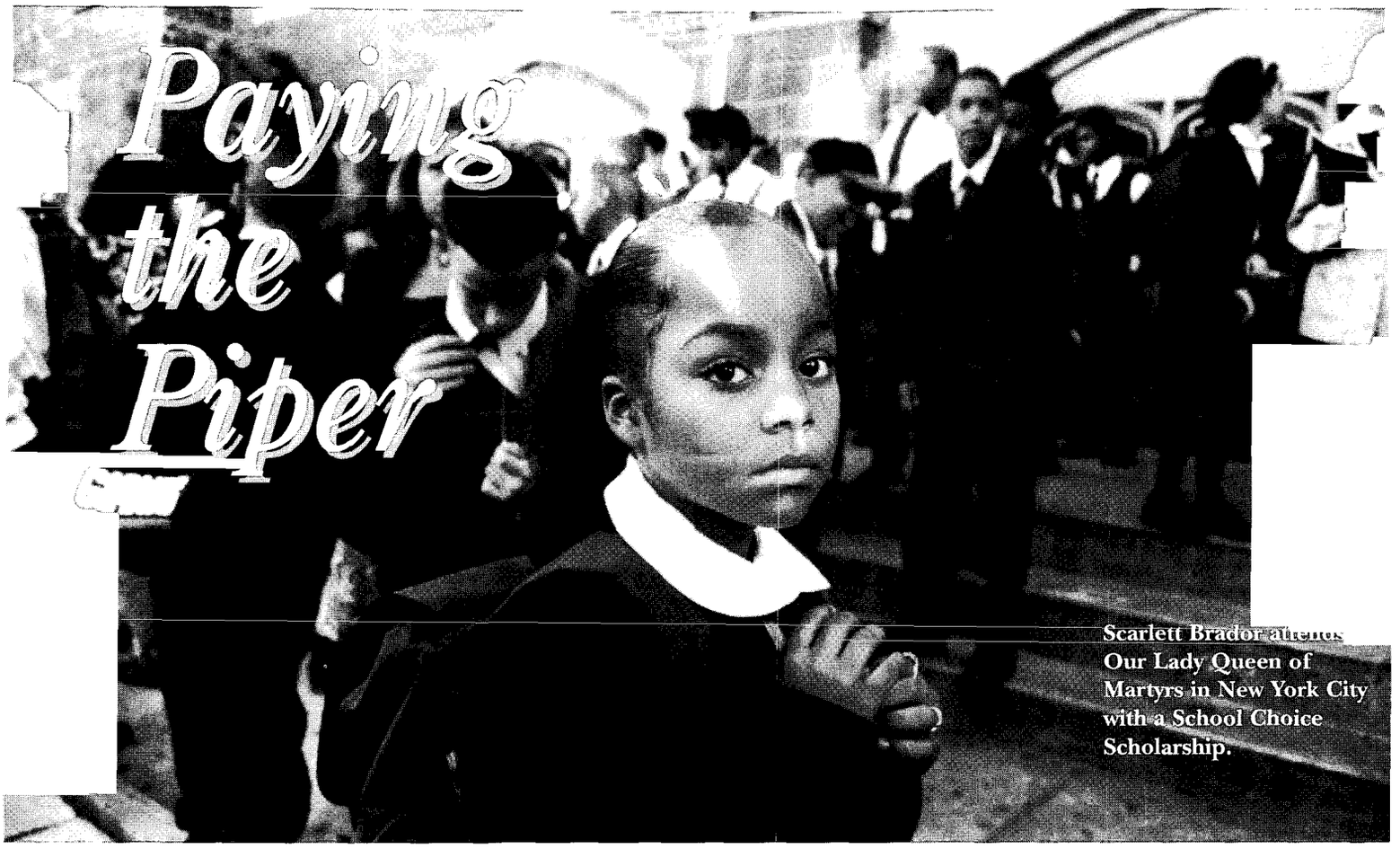
Paying the Piper



Scarlett Brador attends Our Lady Queen of Martyrs in New York City with a School Choice Scholarship.

Photo by Ericka McConnell

Will vouchers undermine the mission of religious schools?

By Joe Loconte

By most accounts, last year was a banner year for school choice. In June, the Wisconsin Supreme Court ruled that a state-funded voucher program does not violate the separation of church and state. The initiative, the largest in the nation, allows poor children in Milwaukee to attend the public or private school of their choice, even religious schools. In September, 6,300 Milwaukee students used vouchers averaging $4,900 to enter private and parochial classrooms. In November, the U.S. Supreme Court, by an 8 to 1 vote, let the Wisconsin court ruling stand, buoying similar efforts in at least seven other states.

The Wisconsin initiative seems a textbook example of how to beat the education establishment into retreat. "We think the Milwaukee experiment is a good one," says Michael Guerra, an executive director at the National Catholic Educational Association, the nation's largest association of religious educators. "It is a model for the country."

For many religious educators, however, the victory in Wisconsin is not so much a model as it is an omen—a case study in how choice programs could become a Trojan horse for government meddling in private education.

Even before the voucher program became law, opponents tried to saddle religious schools with a hodge-podge of federal and state regulations. That effort has failed—so far—but not without winning important concessions: All participating schools must loosen up their admission policies and allow

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voucher students to opt out of religious activities.

The result is a growing uncertainty about the longterm impact of government vouchers on sectarian schools. Nearly all of Milwaukee's Catholic schools are accepting children in the program. "There is no question that we will be able to maintain our independence and our mission," says Brother Bob Smith, principal of Messmer High School, one of the city's oldest Catholic schools. But the Wisconsin Evangelical Lutheran Synod, the second largest provider of religious education, is mostly taking a pass. Says John Wesenberg, principal of Garden Homes Lutheran School: "We feel it would compromise our mission as a Christian school."

Private education leaders nationally are also voicing concerns. Asked whether most of the 1,160 members in the American Association of Christian Schools would endorse voucher programs, Washington lobbyist Martin Hoyt grows pensive: "It depends on how the law is written." David Zwiebel, general counsel for Agudath Israel of America, says most Jewish schools "would not be happy" with an opt-out provision. A 1998 Department of Education survey of private schools confirms that view. Drawing from 22 urban areas nationwide, the study found that few sectarian schools would join voucher programs that allowed exemptions from religious instruction or activities.

What does this mean for school choice?

About 90 percent of the nation's 26,000 private schools claim a religious identity; many are parochial, i.e., they're run by churches, parishes, synagogues, or mosques. If voucher programs expose these classrooms to new layers of government oversight, the choice movement could be dead on arrival. It was, after all, a federal attempt to regulate private schools in the 1970s—not the abortion issue—that first activated the religious right.

"The beauty of vouchers is that they could disconnect education from government by breaking up the public school monopoly," says Bruce Cooper, an education specialist at Fordham University. "But if it goes badly, religious schools could become part of the government sector and lose their autonomy and their authority."

Campaign to Intimidate

The Milwaukee Parental Choice Program is the one to watch. As space becomes available, it will allow up to 15,000 children—about 15 percent of total student enrollment—to leave public schools. Wisconsin is joined only by Ohio in funding vouchers that can be used in religious classrooms. (Ohio's program is being challenged before the state's supreme court.) So far, about 60 of the city's 90 religious schools are involved in the effort.

The neglected storyline of the Wisconsin effort, however—an embattled education department, powerful teacher unions, and an antagonistic state superintendent—suggests several traps.

First, voucher opponents will wage a relentless campaign either to regulate religious schools or frighten them out of the programs altogether. Once Wisconsin's Supreme Court approved the Milwaukee initiative, the state's Department of Public Instruction (DPI) joined with civil liberties groups to undo the decision. Though unsuccessful, they came close to imposing on religious schools a crop of anti-discrimination laws.

Topping the list were federal laws such as Title IX, which bans discrimination based on sex or gender. State officials argued that same-sex schools shouldn't be allowed to participate in the program.

This was, at best, an odd claim. The Milwaukee voucher program does not involve any federal funds. Even if it did, Title IX specifically exempts single-sex elementary or secondary schools, whether they are public or private. In fact, no elementary or secondary school has ever been disqualified under Title IX for its single-sex admission policy. Says James Barry, one of several Milwaukee attorneys defending the program: "DPI's attempt to exclude them was simply another attempt to disrupt the choice program."

If voucher programs expose religious schools to new layers of government oversight, the choice movement could be dead on arrival.

The agency also invoked Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicap or disability. That looked like another fishing expedition. Private religious schools are exempt from the law unless they get federal funds, and then are obligated to accommodate children only if doing so requires making "minor adjustments" to their programs.

Choice opponents knew this, of course, and appeared to be using different bait: Some schools accept students under the federal school lunch program, making them potential targets of anti-discrimination statutes enforced by the U.S. Department of Agriculture, which administers the program. The vigorous application of these rules against religious schools would surely pose a significant financial burden.

Next came the loosely worded Wisconsin Pupil Nondiscrimination Statute. The law protects public school students from discrimination based on sex, race, religion, pregnancy, sexual orientation, or any kind of physical or emotional disability. Finally, the DPI tried to extend to voucher students "all federal and state constitutional guarantees" for equal protection and due process. Had the agency prevailed, it would have added more

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than 300 pages of state and federal rules—governing everything from admissions to student discipline to religious activity.

"It would have been an extraordinary expansion of government control," says Gordon Giampietro, member of a group of Federalist Society lawyers defending private schools in Milwaukee. Clint Bolick of the Institute for Justice, who argued for the program before the Wisconsin Supreme Court, sees a strategy to intimidate: "The education establishment has learned the efficacy of the regulatory scare."

The Administrative State

Scare tactic or not, the Department of Public Instruction's campaign reveals the scope of the challenge for voucher advocates: *They must not only contend with courts, governors and state legislatures, but with the stealth branch of government—the administrative state.*

There was nothing in the Milwaukee School Choice Program—as passed by the legislature, signed by the governor, and approved by the court—that demanded new regulations on religious schools. "Look at the language of the statute as written by the legislature," says Giampietro. "The DPI had no authority to do what it was doing."

The Wisconsin Supreme Court ruling was clear as crystal: Private schools do not become *de facto* public schools under the voucher program, and thus are not subject to the same regulations. Upholding an earlier decision, the court in *Jackson v. Benson* concluded that "the mere appropriation of public monies to a private school does not transform that school into a district school." The reason, it said, is that no money flows directly from the state to religious classrooms; qualifying parents decide which schools will receive their voucher dollars.

If we're not careful about how voucher programs are designed, in four or five years the government could turn these schools into clones.

In principle, the ruling means that any attempt to convert private sectarian schools into public schools would violate the religion clauses of the First Amendment. According to the court, government may not interfere "in any way with the schools' governance, curriculum, or day-to-day affairs." Moreover, state enforcement of minimal standards and oversight of private schools, the court said, "already exists."

None of these caveats prevented the education department from launching its bureaucratic siege. It was a small band of conservative lawyers, working with Republicans in the state legislature, who successfully challenged the DPI and its allies. "This is about control," says Mike Brennan, another lawyer defending private schools. "It's about the perception of lost control. And it's an attempt by the fourth branch of government to keep that control."

The attempt to lift regulatory exemptions for religious institutions signals a more serious threat. *A third lesson from Milwaukee is that the anti-voucher crowd is prepared to demolish the distinction between public and private education.*

Public school officials deny this, and surely most want to protect the integrity of private and religious education. Wisconsin officials say they have never insisted that choice schools become public schools.

But that claim doesn't really jive with their regulatory itch, or the arguments to satisfy it. Carole Shields, president of People for the American Way, defended the proposed rules by claiming that participating schools "are seeking special rights to which they have no legitimate claim." The American Civil Liberties Union flatly disagrees with the protected status afforded sectarian schools. "It's time for them to renounce discrimination and offer their students rights similar to those enjoyed by public school students," says Chris Ahmuty, executive director of the ACLU in Wisconsin.

In what sense would voucher schools, under the DPI scheme, remain private? Greg Doyle, the agency's communication director, hesitates. "Any school that takes public funds ought to be required to do the things that public schools do," he says. "It's inevitable that the public will demand greater accountability for those dollars."

This is the ceaseless refrain of voucher opponents. There is, to be sure, an argument for accountability; public money, afterall, is involved in the programs. Yet—as the Wisconsin court affirmed—private schools already comply with rules governing health and safety codes, student attendance, and academic curricula. Moreover, the oversight envisioned by state bureaucrats has little to do with the educational purpose of these schools.

What educrats call "greater accountability" religious leaders call government control. "We're talking about the same thing," Doyle says. "It goes with the territory of taking public money."

It is precisely that Borg-like view of state regulation (resistance is futile; you *will* be assimilated) that leaves many educators nervous. Charles Glenn, professor of educational policy at Boston University, is both a voucher advocate and a 20-year veteran of a state education bureaucracy. "If we're not careful about the plumbing, about how voucher programs are designed," he warns, "government will get its hands on these schools and in four or five years turn them into clones."

A Poison Pill?

Some voucher supporters think the cloning

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process may already have begun. *The fourth lesson is that even small program concessions to the anti-voucher crowd can hatch large worries among religious educators.*

The effort to expand Milwaukee's existing choice program to include religious schools in 1995 faced vocal opposition from the Milwaukee Teachers' Education Union, the American Civil Liberties Union, People for the American Way, and other civil rights groups. Voucher advocates brokered a deal, including what seemed like modest rules about admissions and participation in religious activities.

At the time, few groups balked. Yet one reformer closely involved with the Milwaukee effort called the language a "poison pill" for religious schools, warning of "excessive entanglement of the state in the affairs of church schools." Given the cautious reaction of some conservative leaders to the Wisconsin experiment, apprehension about vouchers appears to be growing.

Much of the concern centers on the program's admissions policy, which compels schools to relinquish some control. Though educators decide how many voucher children to accept, if they receive more applications than they can accommodate, students are chosen by lottery (preference can be given to siblings of students already enrolled). For some educators, the lottery provision could threaten one of the most cherished rights of parochial education: the careful matching up of families with a school's distinctive moral and religious tradition.

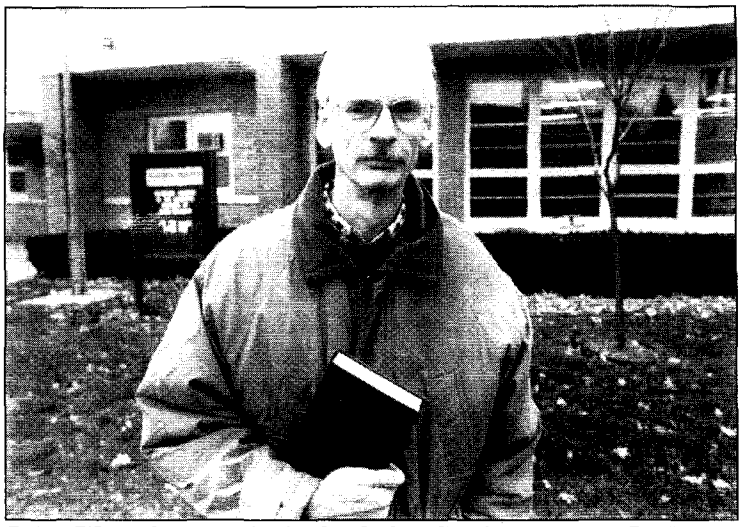
The largest provider of religious schools in Milwaukee, the Catholic Church, believes the provision is workable—as long as schools clearly explain to families their mission statement and academic and religious programs. "It has the potential to be problematic, but it doesn't need to be," says John Norris, superintendent for Catholic schools in the archdiocese. "We need to be very upfront with the parents about what the school is and what it does."

The Milwaukee Archdiocese, which oversees 37 city schools with about 12,000 children, has strongly encouraged its schools to participate. All but three are accepting voucher children.

Some educators, however, worry that children of parents not terribly interested in religion will not fit in—and disrupt their teaching philosophy. "Our schools are magnet schools for people who want a Christian education," says Dan Schmeling, administrator for parish schools at the Wisconsin Evangelical Lutheran Synod. "And this is not ecumenical, generic Christianity." The synod supports 18 parish schools in Milwaukee—nearly all of which have bowed out of the program.

Nativity Jesuit Middle School, a year-round school for Hispanic boys, also is taking a pass. School officials say the 8 a.m. to 9 p.m. regimen—with its busy routine of academics, work, sports and homework—isn't for most kids. "If you have to take all comers, then you can't use academic records, behavioral records, attendance records or anything else," says principal Larry Siewert. "But if a student isn't making it in a regular school, he probably won't make it here."

A slightly different objection comes from schools that are tightly linked to religious congregations and primarily serve church or synagogue members. Most Jewish schools, for example, do not even admit non-Jews. "Our main priority is to take kids from our churches," says Richard Osborn, vice president for education at the General Conference of the Seventh-Day Adventists. "It's a question of critical mass: At what point does the culture of non-Adventists undercut our ability to accomplish our mission?"



John Wesenberg, principal of the Garden Homes Lutheran School, believes that vouchers lead to a compromised mission.

Photo by David Joles

National leaders of religious school associations, though supportive of vouchers, mostly reject government-imposed conditions on admissions. "Most of our schools will not accept that constraint," says Daniel Vander Ark, executive director of Christian Schools International, with 350 members in the United States. "Almost all of our schools only accept students of parents who subscribe to the mission of the school."

John Holmes, director of government affairs for the Association of Christian Schools International, says his organization's number one concern is the regulation of admissions. Though most of his group's 3,500 member schools admit children of all faith backgrounds, they never do so without the eager involvement of parents. "The admissions process is what makes it possible to evaluate whether a child and his family would be comfortable with who we are as a religious institution," he says. "Your whole philosophical framework can be ruined by [families] who are opposed to what you are doing."

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Sterilizing the Faith?

Milwaukee's second concession, an opt-out provision, is just as controversial. It prevents schools from requiring students to participate in any religious activity that they or their parents find objectionable.

So far the provision has not caused any problems in Milwaukee classrooms. Messmer Elementary and Messmer High, for example, enrolled over 550 voucher children last fall, most of them non-Catholics. According to Brother Bob, no one is opting out of the schools' mandatory prayer services.

All told, about 6,300 low-income students are using the voucher program, attending mostly Catholic, Protestant, and Islamic schools. Officials say they know of no students being excused from religious activities. "We know that parents are picking our schools because they want an infusion of values in their children's education," says Sharon Schmeling, associate director of the Wisconsin Catholic Conference. "They will choose schools that meet their childrens' needs."

Church-based schools vary, of course, in the degree to which religion permeates their classrooms. Some confine explicit expressions of faith to religious symbols, morning prayers, or chapel services. Many schools already excuse students from religious activities for the sake of conscience; for them, the opt-out clause is mostly a non-issue.

For others, the fingerprints of faith are nearly everywhere. The academic program at Garden Homes Lutheran School, for example, begins at 8:30 a.m.—with a hymn. On a recent morning in Nona Zellmer's classroom, kids belt out "What a Friend We Have in Jesus."

Next comes an exercise in listening skills. Zellmer recites a modified version of a story in Luke's gospel in which Jesus, teaching to a packed house, heals a paralyzed man lowered through the roof. She launches into a question-and-answer period, testing her students' ability to follow the story, recall important details, and apply its lessons.

Garden Homes is typical of many conservative Protestant schools that connect academic subjects to biblical themes, from science classes that probe the origins of life, to history lessons that emphasize the religious faith of America's founders. Says Zellmer: "Everything is taught with regard to God's word and how it applies in our lives."

These and other schools tend to oppose the opt-out clause on principle or won't risk its impact on the classroom. "It has not been a problem at all, but we're not willing to accept the problem," says Herb Wrate, superintendent of Milwaukee Junior Academy, a Seventh-Day Adventist school. Two of the 12 schools attached to the Lutheran Church Missouri Synod have bowed out for the same reason. Leaders at the nation's largest associations of Protestant schools express similar worries.

It doesn't help matters that the language of the opt-out clause—"any religious activity"—is slippery. It surely covers classroom prayers or religious services. But what about church-sponsored fund-raisers, or Bible classes, or English courses with required readings in the Old Testament?

Educators are also divided over the policy's effect on classroom discipline, a major reason parents want out of public schools. Some officials insist they can set the same academic and disciplinary standards for voucher children as non-voucher kids—and expel them if need be. "You do not lose your ability to maintain the environment you want," says Schmeling of the Wisconsin Catholic Conference.

Brother Bob Smith is confident that even within a voucher system religious schools like Messmer in Milwaukee will continue to meet the spiritual needs of their students.

Photo courtesy of Messmer High School

Zellmer is dubious. "If parents are not backing what you teach in schools with what they believe at home, there is no foundation on which to build." James Rahn, an elementary school coordinator for the Wisconsin Evangelical Lutheran Synod, worries about parents invoking the opt-out clause whenever they disagree with a classroom decision. He says it's impossible to separate his schools' discipline policies from Christian commitment. "Our teachers aren't using behavioral management techniques," he says. "Good behavior is an expression of faith."

Herein lies the problem with attempts to separate religion from educational activities: For some schools, such surgery would be too invasive; religious belief is simply too interwoven into their day-to-day activities. "These schools don't want to compromise the purpose for which they exist," says Joseph McTighe of the Council of American Private Education. "They are primarily in the business of developing the moral and spiritual dimensions of young people."

Educators agree on one point: They would oppose an opt-out rule that affected curricular requirements. It remains unclear whether the Milwaukee program could extend that far. "Nobody really knows what it means," admits John Norris of the Milwaukee Archdiocese. "It's going to be tested one way or the other."

Martin Hoyt, of the American Association of Christian Schools, says his group's major worry is that choice programs would lead to the "religious sterilization of academic courses." Many religious educators around the country apparently share that fear. The Department of Education report cited earlier found that 86 percent of private schools sur-

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veyed would balk at a voucher program that allowed exemptions from religious instruction.

Trigger Mechanism?

The impact of Wisconsin's choice program will have to be worked out over time. A larger question remains: Will vouchers trigger any new state or federal regulations?

So far the answer is a tentative no. First, the Milwaukee model, by directing funds not to schools but to families, minimizes government entanglement. "Not one cent flows from the State to a sectarian private school," said the Wisconsin court, "except as a result of the necessary and intervening choices of individual parents." Second, by allowing children of any faith to attend any public or private school, the program is neutral and nondiscriminatory. The upshot is that private religious schools remain private—leaving no rationale to regulate them as though they were public.

That happy news must be tempered by the zealotry of the anti-voucher crowd. They will not give up their effort to slap anti-discrimination statutes on voucher schools; they'll simply look for a more direct pipeline of government money to justify it. "They will fight an underground war," predicts Michael Guerra of the National Catholic Educational Association. "They will attempt to control through regulation what they were unable to win through legislation or in the courts."

Wherever government money flows—from school lunch programs to Title VI funds for computers and books—regulations could follow. Christine Stoneman, an attorney with the left-leaning Center for Law and Education, claims these laws

Eighty-six percent of private schools surveyed would balk at a voucher program that allowed exemptions from religious instruction.

are sleeping giants in the campaign to extend federal mandates. Writing recently in *Rethinking Schools*, she says "their broad coverage offers vast opportunity for new advocacy efforts."

Meanwhile, the ACLU has mailed surveys to participating Milwaukee schools to test their willingness to bow to anti-discrimination laws. (The schools ignored the surveys.) Their next step: find a disgruntled voucher family and file suit.

Michelle Doyle, director of the Office of Nonpublic Education at the U.S. Department of Education, says her agency is not likely to initiate new oversight. But, she adds, if individuals begin filing discrimination suits, "I couldn't begin to tell you how a court would look at it." Officials at Wisconsin's education department are clearly hoping for a judicial windfall. "I think the changes will come through litigation, not through legislation," Doyle says. "This will be one incremental step at a time."

Voucher supporters—and litigators—are watching and waiting. "Government is always going to try to overextend itself in education. It's the nature of the beast," says Dan McKinley, director of Partners Advancing Values in Education, a clearinghouse for choice schools, "just look at the experience of religious colleges with government regulators since the 1960s." Schmeling of the Wisconsin Catholic Conference says, "they are going to continue to fight us under the old model, which is to regulate, regulate, regulate."

Milwaukee's pro-voucher legal team is studying the issue of federal and state regulations that might apply to religious schools. Though leaving the question mostly open, they are crafting a strategy to rebuff legal challenges. Clint Bolick of the Institute for Justice is optimistic about winning in the courts. "When it comes to decisions that go to the heart of the religious enterprise, I don't think there is much threat of serious regulatory interference." Giampietro agrees: "There probably will be a lawsuit, but we're confident it will not prevail."

No Guts, No Glory

Even so, the success of voucher experiments depends not only on savvy and sympathetic litigators. Strong and precise legal protections must be written into state legislation, probably stronger than what exists in Wisconsin. "To say that Milwaukee is the necessary model for vouchers is a mistake," says McTighe. "There are other ways to craft proposals that protect the integrity of the schools."

If the voucher movement is to gain the widespread endorsement of religious educators, we'd better find them. Choice advocates call the Wisconsin initiative the "functional equivalent" of the G.I. Bill. Since the end of WWII, Uncle Sam has been helping ex-military pay for college—religious or secular—attaching many federal rules to the G.I. subsidy. Another example is the federal Child Care Development Block Grant, which subsidizes the day-care expenses of over 324,000 needy children ever year. Many state agencies make the money available as vouchers, allowing parents to use them at secular or church-based centers. So far, day-care vouchers have not sparked a regulatory crackdown.

Some education reformers are pushing plans modeled on the "charitable choice" provision of the 1996 federal welfare law. The legislation encourages government to finance religious groups doing social service work, but without regulating them in a way that impairs their religious character. The law stipulates that any group receiving federal funds must keep control over "the definition, development, practice, and expression of its religious beliefs."

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A legal firewall, tested in the courts, will be vital. But by itself it cannot protect the integrity of religious schools involved in government programs. Ultimately, such protection must come from within—from schools with a gravitational center of moral and religious conviction.

"The real danger is not government interference, but the loss of nerve," says Boston University's Charles Glenn. "If you begin to lose your nerve, then you begin to get pushed around." Glenn, in his upcoming book *Ambiguous Embrace,* looks closely at the impact of government on religious schools and social-service agencies. His conclusion: "Those agencies that are clear about what they stand for, and are consistent in the integrity of their mission, can withstand government pressure."

Such pressure will surely come. U.S. Secretary of Education Richard Riley warns that voucher programs will undercut the quality of private parochial schools "because they make them less private and less parochial." Whether that's just another fear tactic is besides the point; we now know the bureaucratic ambush that voucher opponents plan against private schools.

Horace Mann, the 19th-century father of public education, was deeply uncomfortable with orthodox religious belief. Yet he could not envision education divorced from religious teaching. "Our system," he wrote, "earnestly inculcates all Christian morals; it founds its morals on the basis of religion; it welcomes the religion of the Bible." Whether he intended it or not, however, Mann set off a process that has made the "religion of the Bible" the most unwelcome of all possible worldviews in most of contemporary education.

The irony here is that more and more parents want public schools to recover the character-shaping mission of education—the trademark of religious schools. "An exclusively secular education is an illiberal education," write Warren Nord and Charles Haynes *in Taking Religion Seriously Across the Curriculum.* By insisting on shutting out religious voices, they say, we place students "at a deep disadvantage in thinking critically about where the truth might lie."

Religious schools, by their very nature, are in the truth business: They assert an academic, moral, and transcendent alternative to our desacralized public schools. Moreover, their independence explains much of their success in educating poor and disadvantaged kids. If designed poorly, voucher programs could undermine that independence—and instigate a dumbing down of religious principle and practice. But if crafted with exceptional patience and wisdom, they might just stir public educators from their long, secular sleep.

***Joe Loconte** is the William E. Simon Fellow in Religion and a Free Society at The Heritage Foundation.*

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Photo by Benjamin Tice Smith

A Choice *for the* Chosen

How school choice can renew Jewish community

By Jeremy Rabkin

School vouchers will give more parents the resources and the choice to send their children to private schools. In these circumstances, more Jewish parents would be enabled to send their children to Jewish day schools. More Jewish children would then have the chance to obtain a grounding in Hebrew language, in Jewish history and ritual, and in the Bible, the Talmud, and other central texts. And this, in turn, would strengthen Jewish community.

So Jews ought to support vouchers—or tuition tax credits or other programs that would expand school choice. Yet the most prominent Jewish advocacy organizations are opposed to school choice programs. Organizations like the American Jewish Congress and the Anti-Defamation League of B'nai Brith do not oppose Jewish education or separate Jewish schools. But they have been firmly opposed to government programs to support education in religious schools—even when the support goes to parents who then can choose what schools are best for their children.

There seem to be two main grounds of opposition. On the one hand, there is skepticism that many more Jewish parents would send their children to separate Jewish schools, even if some form of public funding made them more affordable. On the other hand, there is concern that government aid to—or "entanglement" with—religious schools would foster a more religious atmosphere in the country, which would be, in practice, a Christian atmosphere, hence marginalizing to non-Christian groups. Many Jewish organizations are staunch advocates of public education, seeing it as a guarantor of a common public culture, which ensures toleration for religious minorities.

These assumptions and concerns are, I believe, misplaced in contemporary America. But they still need to be confronted. It may be useful, however, to start with some common ground—on why the encouragement of Jewish schooling

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would be a good thing for the Jewish community on its own terms.

Benefits of Separate Schooling

In the two thousand years since Jews have lived in exile from the Land of Israel, Jewish communities have always organized separate schools for their children to teach the essentials of Jewish religious practice. Yet in America, Jews have been welcomed with full citizenship rights and a fully equal status to a degree unmatched perhaps by any host country in the long history of the Jewish Diaspora. And for perhaps the first time, too, the Jewish community in America trustingly sent its children off to public schools, where they received the same instruction as children of other faiths. Most Jewish children in America receive almost no separate instruction in Jewish religious practice. Most of those who do receive such instruction do so after school or in Sunday school classes, where time is short and distractions are many.

Students pray and learn about their faith at the Torah Day School, an Orthodox academy in suburban Atlanta, Ga.

Photo by Benjamin Tice Smith

In consequence, most American Jews now observe the ritual law quite imperfectly or not at all. In synagogue worship, the traditional prayers and the readings from the Torah are in Hebrew, a language which most American Jews, again, know only imperfectly or not at all. Jews who have received no serious prior instruction are likely to find the synagogue service bewildering. Certainly, the uninitiated find it hard to take part and must remain, at best, spectators of a staged ceremony and not full participants in communal worship.

Surveys in the early 1990s found that the majority of Jews who married in the previous decade married non-Jews and that conversions of non-Jewish partners were declining. As one might expect, opinion polls report that the children of intermarriages regard religion as a matter of private belief or inner feeling—and not something that requires formal ritual or demonstrative affiliation. Parents who do not establish a Jewish home cannot expect their children to behave differently when they grow up. The demographic trends are so disturbing that even the traditionally liberal Jewish advocacy organizations have recently begun demanding programs to preserve "Jewish continuity."

But the most effective program is Jewish education. Children who receive a more thorough Jewish education are far better equipped to participate in Jewish religious practice. So, when they grow up, they tend to take their religious obligations more seriously and to play a more active or committed role in the Jewish community.

The point should not require documentation but it has, in fact, been documented. A survey conducted by Mordechai Rimor and Elihu Katz (funded by the Avi Chai Foundation) found, for example, that 79 per cent of Jewish day school graduates married other Jews, compared with fewer than half of those who had only received Jewish instruction in after-school programs.

Does this effect simply reflect the fact that the parents who send their children to Jewish day schools tend to be more committed to "continuity," themselves? A recent survey by Steven M. Cohen sought to control for parental influences and isolate the separate effect of schools. He found that, among Jewish activities, "part-time school, youth group, adolescent Israel travel, each make partial contributions. Day schools, be they Orthodox or not, typically exert much greater impact."

So why shouldn't Jews support public policies that would allow more Jewish children to attend Jewish day schools? Part of the cold response to voucher schemes seems to reflect a skepticism that there really would be more children in Jewish day schools even if government policies did make them more affordable. But the skeptical attitude assumes that all Orthodox families are already sending their children to Jewish schools and that demand for separate Jewish schools among non-Orthodox Jews will always remain limited. Both assumptions are highly questionable.

Growing Opportunities

The overwhelming majority of Jewish day schools in the United States—78 percent at last count—are Orthodox. But it is not true that Or-

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thodox parents have always sent their children to yeshivas and therefore will always do so, no matter what the prevailing government policy.

As late as 1945, there were only 69 Jewish day schools in the United States, with a combined enrollment of only 10,200 students. The growth in Orthodox day schools in the decades since World War II has been extraordinary. By 1975, there were 425 Orthodox day schools, serving 82,200 students. There are 731 day schools today.

This expansion has occurred despite tremendous financial burden. Vouchers would ease the tuition burden for parents and may allow schools to expand their enrollments and improve their facilities. A 1994 report on "Jewish Day Schools in the United States" sponsored by the Avi Chai Foundation found that day-school enrollment falls off substantially in higher grades, even for Orthodox schools. A survey of very traditionalist schools in New York found twice as many students enrolled in first and second grade as in 12th grade. Why the decline? Cost is clearly a factor, along with some dissatisfaction at small schools and inadequate facilities—which are related, in turn, to financial pressures. A voucher of significant size might enable parents to keep their children in these schools longer. What is more, the schools themselves would enjoy the added resources that could make them all the more attractive as a viable educational alternative.

This argument is even stronger—because the potential numbers are much larger—if we turn to non-Orthodox schools and non-Orthodox families. Although their enrollment is much smaller, non-Orthodox day schools represent a dramatic success story in their own right. Prior to 1957, when the Conservative synagogues encouraged the creation of their own Solomon Schechter Schools, the only Jewish day schools were Orthodox. Since then, the number of students in non-Orthodox schools has risen to about 50,000. In addition to the Schechter Schools, which seem to serve the large majority of non-Orthodox day-schoolers, there are now Reform day schools and a network of some 80 "independent" schools not affiliated with any synagogue or denomination.

One reason to expect continuing growth is that, although overall trends are still dismaying, there is substantial evidence of Jewish commitments deepening among those who affiliate with Jewish institutions. Growth in Jewish summer camps, like the Ramah camps sponsored by the Conservative synagogues, has paralleled that of day schools. After-school Jewish instruction, though enrolling far fewer students than it did in the 1960s, is much less likely to be a once-a-week affair than in the past.

Yet most parents outside Orthodoxy do not now send their children to Jewish day schools. Though we do not have reliable numbers, enrollment in such supplementary Jewish programs approaches 300,000, while enrollment of students in non-Orthodox day schools is estimated at 50,000. Such figures imply that only about 15 per cent of the potential market for non-Orthodox day schools is now actually served by such schools. By contrast, Catholic schools currently enroll 28 per cent of Catholic children in grades K-8 (according to Church estimates), even though intensive religious instruction is not as critical to Catholic worship as it is for full participation in Jewish ritual.

Voucher subsidies might help tip the scales in favor of a Jewish day school, not only for parents concerned about cost but for those concerned about quality. The larger the school, the more it can spread its costs and improve its facilities. Size, moreover, gives an impression of reassuring vigor, just as half-empty classrooms may reinforce a sense of fragility. Particularly for non-Orthodox parents, Jewish day schools would become more attractive if they fed into more good Jewish high schools.

Some hint of this can be gleaned from a 1995 survey of Jewish parents in Seattle, commissioned by the Samis Foundation. One third of the 419 families who did not currently send their children to a day school said that they were giving the matter serious consideration. Of these, nearly half said they would be willing to pay as much as $3,000 for such a school—but less than 20 per cent said they would be willing to pay more than $5,000. The Samis Foundation then provided assistance to the only Jewish high school in Seattle so that it could cap its tuition charges at $3,000 per student. The result was an immediate 34 percent jump in enrollment—from 58 to 78 students. Still, a school with 78 students looks painfully small. With more assistance, the numbers might expand still more and make a separate high school seem more inviting to hesitant parents.

Seventy-nine percent of day school graduates married other Jews, compared with fewer than half of those who had received only after-school instruction.

Uncommon Schools

Many Jews will readily accept the argument up to this point. But they will still insist that public assistance to religious schools, even in the form of vouchers to parents, is wrong because it threatens public education's ideal of the common school.

The argument is often phrased in explicitly negative terms. Some Jewish advocates worry that an expansion of religious education will promote an expansion or proliferation of religious attach-

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ments. Only last year, an official of the American Jewish Committee remarked at a Baltimore conference on church-state issues that government aid to religious schools is improper because such schools "tend to proselytize."

When we are talking about private schools, where attendance is entirely voluntary, reasonable concerns about religious indoctrination in public schools simply do not apply. Nor is it easy to grasp how indirect government aid to such schools can be seen as "endorsement" of particular sectarian doctrines, when rival doctrines of many sects are equally eligible for such assistance. At bottom, then, the concern seems to boil down to something like this: even if sectarian education is good for the Jews, it might also be good for the Christians and therefore is bad for the Jews.

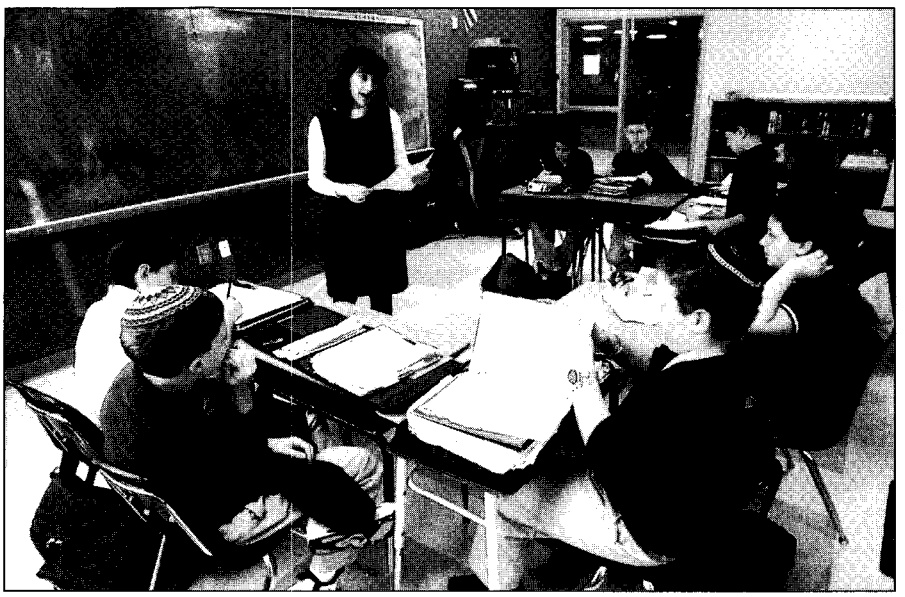
But in recent decades, the Catholic Church and major Protestant denominations have gone to considerable lengths to eliminate or revise traditional teachings that seemed hostile to Jews. In most American churches, anti-Semitism is not simply a social taboo but a denial of current religious doctrine. In contemporary America, there is no body of reliable evidence to substantiate the concern that Christian religious education will foster intolerance.

Still, public education continues to inspire much Jewish sympathy, as the foundation of a broader public culture in which Jews can fully participate. This attitude is understandable—but sadly anachronistic. The public schools that trained earlier generations of American Jews were the expression of a different America. The sociologist Nathan Glazer captured the point quite well in a personal reminiscence of his experience in the public schools in New York City during the 1930s and early 1940s:

"[N]ot a whiff of cultural pluralism was to be found. Americanization was strong, unselfconscious and self-confident. Although probably two-thirds of the students in New York's public schools were Jewish or Italian, no Jewish or Italian figure was to be found in our texts for literature, for social studies, for history. All cultures but that of the founding English and its American variant were ignored, and students were left to assume, if they thought about the matter at all, that the cultures of their homes and parental homelands were irrelevant or inferior."

In retrospect, one might wonder whether this sort of relentless "Americanization" was an entirely good thing for the American Jewish community. But the era of "strong, unselfconscious, self-confident" Americanization is, in any case, long gone. In the cultural upheavals of the 1960s, public schools were attacked for promoting a false view of America, in the interests of an oppressive white elite. And schools were quick to adapt to new views. Glazer emphasizes the continuing gap between racial minorities and other Americans as a principal factor in fueling demands for "multiculturalist" approaches. Despite his own concerns about fragmentation and social division, Glazer has emphasized the "inescapability" of the new approach in public education. In fact, *In We Are All Multiculturalists Now* he acknowledges that "the victory of multiculturalism in the public schools of America" has been "complete."

Since this ideology of public schools is already promoting limitless lifestyle options and respect for all differences, it is hard to refute demands for greater choice by reviving 19th-century slogans about promoting a common culture.



Teachers like Liora Krug instill life-long Jewish values in their students. These 6th graders attend a Bible class at the Epstein School in Atlanta, Ga.

Photo by Benjamin Tice Smith

Jewish parents who support public education for their children will still find many excellent, conventional suburban schools. But the question is whether the Jewish community has a stake in "protecting" public education by blocking government vouchers to private and religious alternatives. How much deference should be given to the vision of a common school, when school authorities around the country are now licensing more and more diverse school options? Can it really be in the Jewish interest to see that every sort of diversity has its claim on public support—except religious diversity?

***Jeremy Rabkin** is a professor of government at Cornell University.*

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Not the Usual Suspects

The Most Wanted Quotes on Vouchers and School Choice

Arthur Levine
President of Columbia University Teachers College

"Throughout my career, I have been an opponent of school voucher programs. . . . However, after much soul-searching, I have reluctantly concluded that a limited school voucher program is now essential for the poorest Americans attending the worst public schools. . . . Today, to force children into inadequate schools is to deny them any chance of success. To do so simply on the basis of their parent's income is a sin."

—*Wall Street Journal,* June 15, 1998

Steve Jobs
Co-founder
Apple Computer

"What's wrong with education cannot be fixed with technology. No amount of technology will make a dent. It's a political problem. . . . I'm one of those people who believe the best thing we could ever do is go to the full voucher system."

—*Wired,* February, 1996

Alveda King
Niece of Martin Luther King, Jr.

"I believe that if Martin Luther King and A.D. King were here they would say 'Do what's best for the children.' It [the idea for school vouchers] may sound radical, but so were they." And, "Is it moral to tax families, compel their children's attendance at schools, and then give no choice between teaching methods, religious or secular education and other matters?"

—*Wall Street Journal,* September 11, 1997

Laurence H. Tribe
Harvard Law School

"Any objection that anyone would have to a voucher program would have to be policy-based and could not rest on legal doctrine. One would have to be awfully clumsy to write voucher legislation that could not pass constitutional scrutiny . . . aid to parents . . . would be constitutional."

—*New York Times,* June 12, 1991

David Selden
Former President
American Federation of Teachers

"Kids like them, teachers like them, parents like them—even I've come to like the vouchers."

—*Nation's Schools and Colleges,* June, 1975

Rev. Floyd H. Flake
Former U.S. Representative

"This is not a question for me about Democrats or Republicans. It is really a question about whether or not we are going to continue to let every child die, arguing that, if we begin to do vouchers, if we do charter schools, what we in fact are doing is taking away from the public system. We say, let them all stay there. Let them all die. It is like saying there has been a plane crash. But because we cannot save every child, we are not going to save any of our children; we let them all die."

—*Congressional Record,* October 31, 1997

Chicago Tribune

"The Wisconsin Supreme Court ruled well and wisely Wednesday in holding that there is no constitutional bar to the use of taxpayer-provided vouchers to pay for education at church-sponsored private schools. Not only does the decision move the controversial issue a giant step closer to ultimate resolution by the U.S. Supreme Court, but it also clearly puts the legal momentum firmly behind voucher proponents. That should be heartening to anyone who appreciates the practical and profitable role that religious institutions have played and can play in addressing the social needs of America's urban poor."

—Editorial, June 12, 1998

Howard Fuller
Former School Superintendent
Milwaukee School District

"Interests of poor children are best served if they are truly given options, public and private." And "Real reform will only come from pressure from outside the system, generated by empowered parents with expanded school choice."

—*USA Today,* August 25, 1995

Brent Staples
Editorial Board of The New York Times

"Democrats who had made careers as champions of the poor opposed the [school choice] plan, arguing that a solution that did not save every child was unacceptable. The Democrats got the worst of the exchange. They seemed more interested in preserving the public school monopoly than in saving at least some children's lives [through vouchers]."

—*New York Times,* January 4, 1998

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Albert Shanker
Former President
American Federation of Teachers
"It's time to admit that public education operates like a planned economy, a bureaucratic system in which everybody's role is spelled out in advance, and there are few incentives for innovation and productivity. It's no surprise that our school system doesn't improve: It more resembles the communist economy than our own market economy."
—*Wall Street Journal,* October 2, 1989

Michael Ovitz
Former President of Disney
"I got a really terrific public education. I am a strong believer in public education and I am also a strong believer in options."
—Quoted by *Associated Press,* June 10, 1998

Gerald E. Stroufe
Former Executive Director
Nat. Com. for Support of the Public Schools
"While the voucher plan has offered despairing parents hope, the educator organizations have chosen to attack the source of hope rather than the causes of despair."
—*Education Admin. Quarterly,* Winter, 1971

Rod Paige
Superintendent
Houston Indep. School District
"[A limited voucher program] doesn't weaken public school systems, it strengthens public school systems."
—*Houston Chronicle,* May 22, 1998

John Kerry
U.S. Senator
"Shame on us for not realizing that there are parents in this country who . . . today support vouchers not because they are enamored with private schools but because they want a choice for their children. They want alternatives, and seeing none in our rigid system, they are willing and some even desperate to look elsewhere."
—Speech, Northeastern Univ., June 16, 1998

Virginia Walden
D.C. Parent
"I am a lifelong Democrat, and I am not sure when the Democrats decided that siding with the poor and the needy is no longer part of their platform. School choice empowers parents, and I don't care who is behind it, Democrats or Republicans."
—*Washington Post,* May 24, 1998

Warren Burger
Former Chief Justice of the U.S. Supreme Court
"[T]he court will come to a more enlightened and tolerant view of the First Amendment's guarantee of free exercise of religion, thus eliminating the denial of equal protection to children in church-sponsored schools, and take a more realistic view that carefully limited aid to children is not a step toward establishing a state religion."
—*Meek vs. Pittenger* (1975)

Dale L. Zuchlewski
Member of the Buffalo Common Council
"Do vouchers take resources from public education? There is that possibility, but that doesn't mean we can't structure a program that doesn't hurt the public schools."
—*Buffalo News,* February 20, 1997

William Raspberry
Columnist
"If I find myself slowly morphing into a supporter of charter schools and vouchers, it isn't because I harbor any illusions that there's something magical about these alternatives. It is because I am increasingly doubtful that the public schools can do (or at any rate will do) what is necessary to educate poor minority children."
—*Washington Post,* June 26, 1998

Kurt Schmoke
Democratic Mayor of Baltimore
"If parents of students have the right to choose so many other basics in their lives—such as where they live, where they go to church, where they work—then they also ought have the right to choose where their children go to school."
—Quoted by *Associated Press,* March 8, 1996

Polly Williams
Wisconsin State Representative
"Choice is the best thing that has come around for my people since I've been born. It allows poor people to have those choices that all those other people who are fearing it already have."
—*Washington Times,* April 2, 1990

Roy Allen
Former Democratic Georgia State Senator
"We've trusted the bureaucracy to reform the schools, and they haven't done the job. It's time we talked about trusting parents to make the decision on what school is best for their children."
—*Wall Street Journal,* September 21, 1993

Compiled by Jason Boffetti

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A Question of Capacity

How many children can vouchers really help?

By Samuel Casey Carter

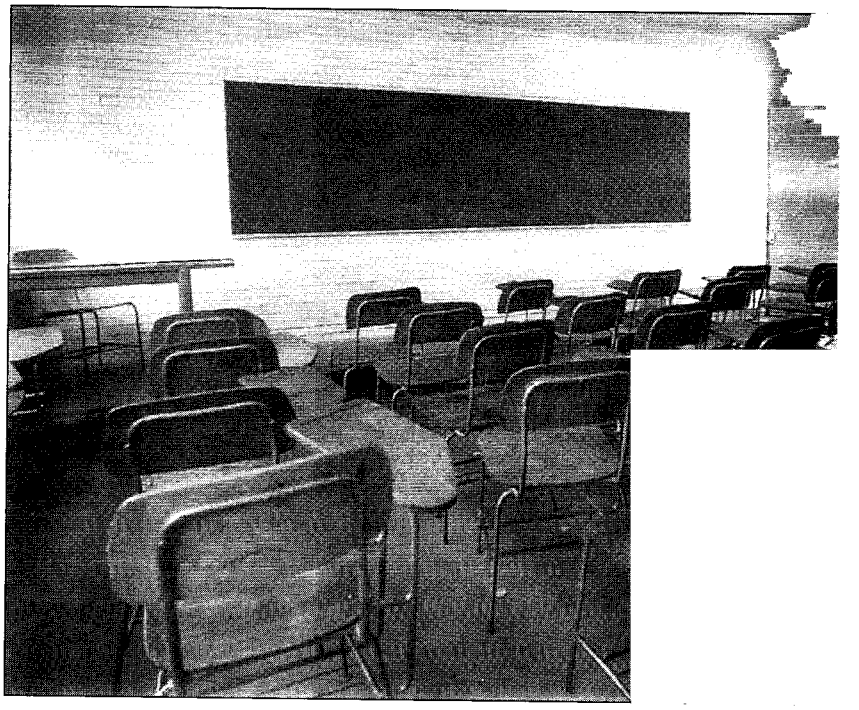

Photo by Michael J. Pettypool / Uniphoto

The current demand for inner-city private scholarships is just the first sounding of a national cry for school choice. Across the country there are three times as many low-income children waiting in line to attend the private school of their choice as there are scholarships available to place those children in school. In New York City alone over 22,000 children want a shot at one of the 1,200 grants now offered by the School Choice Scholarships Foundation. While the demand is staggering, at least three times as many private school seats are available as there are children waiting in line to fill them. Limits in capacity are not an obstacle to school choice at its current level. In fact, there's evidence that increased capacity is on the way.

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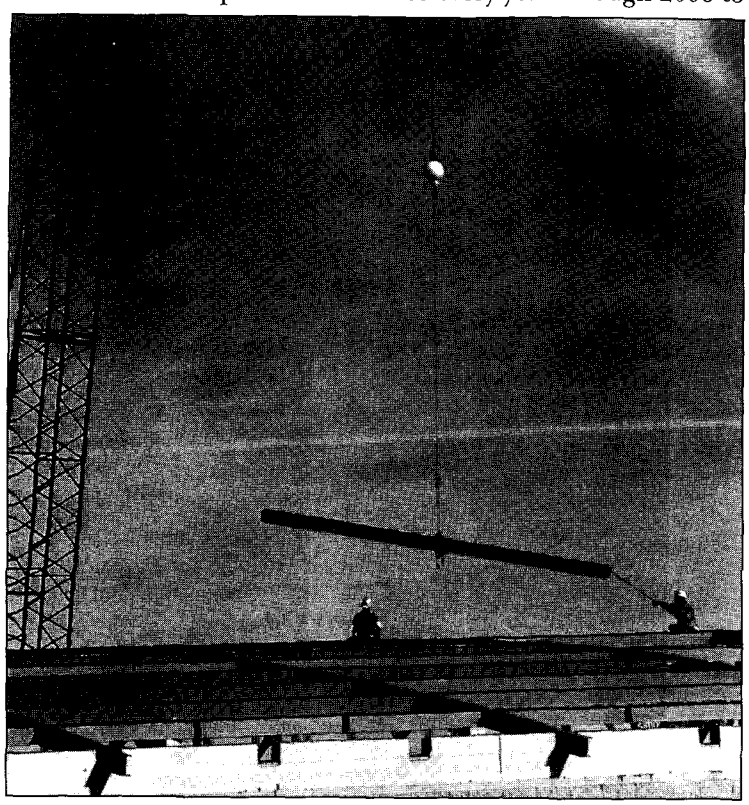
For now the private voucher movement has room to grow. This is forbidding news for many opponents of school choice. No other initiative so highlights the failure of public education as the independent effort to provide private schooling for low-income children in the inner city. What remains to be seen is how many children vouchers can ultimately help. There is some hidden capacity available at the moment. When that runs out—will we have fixed the system in time?

How bad is it?

This year the total public and private school enrollment rose to a record 52.7 million students and is expected to increase every year through 2006 to a projected 54.4 million children. This spike in population, known as the baby boom echo, has prompted the Secretary of Education each year for the last three years to publish a special report on the national need for new school facilities, building renovations, and additional teachers.



The need for classroom space is so great in the suburbs of Las Vegas that the county builds a new school every six weeks.

Photo by Geri Kodey / Clark County School Dist.

While much of the growth in our nation's schools is suburban in nature, Secretary Riley's latest report estimates that our high-poverty urban and rural communities face some of the greatest pressures. The New York City school system, with a total enrollment of more than one million students, increased by 121,803 students between 1985 and 1995. In the same period, Dade County School District, which educates the immigrant populations of Miami, Florida, took in an additional 97,690 students, representing a 41 percent increase in total enrollment. With numbers like these in store for the next few years, people have been asking: where are all of these children going to go?

In suburban areas the answer to this last question is simple—further out. The Clark County School District in Las Vegas is now an area larger than the state of New Jersey. With $3.5 billion in construction bonds recently approved, the district plans to build 88 schools over the next decade, or roughly one every six weeks.

Fulton County School District, which includes Atlanta, is projecting an enrollment increase of 3,500 students a year for the next several years, an increase that is 32 percent higher than expected capacity. This last figure is calculated *after* the district has built 18 new schools in the last decade and *includes* its plans to build 17 more over the next five years. The public school system in Fulton County still requires 327 trailers as classrooms. No matter how much real estate you have available, classroom capacity sets a natural limit on the number of children you can serve.

Our cities are also in trouble. Poor, decrepit, and riddled with violence, many inner-city schools have become warehouses of our country's neediest children. Despite the fact that these schools have little academic merit, are physically dangerous, or both, thousands of children—who have no choice but to attend their local public school—have filled them to the rafters.

Indeed overcrowding in large, central-city school districts is one of the gravest concerns of public educators. In a recent study of 22 urban areas with overcrowded public schools, two thirds of them have overcrowding in at least 25 percent of their institutions. In some districts, like Dade County and Milwaukee, more than 85 percent of their schools are overcrowded. Although responses to overcrowding vary from place to place, students in overcrowded schools invariably attend classes in substandard space, enjoy fewer course offerings, and experience little academic supervision.

It is into this environment that school choice advocates first promoted privately-funded vouchers for low-income children in the inner city. While wealthier families can send their children to private schools or move to better districts, the poor have no choice but to endure whatever schools are left behind. Advocates of these programs are unequivocal: inner-city children have already been abandoned—only if we get them into better schools will their chances of survival improve.

The availability of private-school seating is thus often cited as an obvious constraint on the potential impact of privately-funded vouchers: few extra seats are available, so the real help vouchers promise is minuscule. Upon closer inspection,

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however, the existing capacity of private and parochial schools in the inner city is sufficient to relieve some overcrowding *and* free thousands of children from the despair of their failed local school.

Where can they go?

Across 37 cities and three states, this April the Children's Scholarship Fund (CSF) will issue grants to 35,000 low-income children who wish to attend private schools starting in the Fall of 1999. The program has an estimated worth of $150 million and promises to continue for at least four years.

The cities selected for this program were chosen on the basis of need, their ability to match the donated funds, and the available seating capacity of private schools in the surrounding areas. This last factor is critical. Many cities were not chosen, because the population is too spread out, or, as we've seen in Las Vegas, spreading out too fast. But in all 40 cities and states now in the program, there are seats available to match the number of scholarships offered. In fact, there are many more than that.

The most recent numbers come from the U.S. Department of Education. According to a report entitled *Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools*, there are over 3,100 private schools serving the 22 urban communities with the most overcrowded public school systems. With a full third of these private schools now operating below 70 percent of their full capacity, the report estimates that there are between 150,000 and 185,000 private spaces available in these urban districts alone. All 22 of these communities but one are participating in the CSF program. By the most conservative estimates, more than 220,000 spaces are now open in the 37 cities selected for the 35,000 scholarships.

Evidently, there is room for voucher programs to grow.

Ronald Valenti, Superintendent of Catholic Schools in the Archdiocese of Baltimore, says he could add 1,200-1,500 students to his inner city schools without taxing the current system. "We welcome the opportunity of a voucher program in Baltimore," says Valenti. "Any program that enhances the power of parents to make a choice is going to strengthen education across the board." CSF is bringing 500 scholarships to Baltimore in 1999.

Like Baltimore, Philadelphia has also been identified as having one of the 22 most overcrowded urban public school systems in the country. In such an environment who has room for more scholarship children? According to Msgr. Philip J. Cribben, Secretary for Catholic Education in Philadelphia, he has. In Philadelphia, 80 percent of the private schools are Catholic. In 1970 the archdiocese enrolled over 100,000 K-8 students. Today, the 96 parish elementary schools in the city enroll just 40,000 children. While some schools have closed, Msgr. Cribben estimates that 20,000 students could be added without changing the existing infrastructure. CSF is bringing 1,250 scholarships to Philly in 1999.

As the twin evils of overcrowding and failed instruction drive more students to private schools, however, this new found capacity is sure to dry up quickly.

One of the older programs in the business, the Washington Scholarship Fund (WSF), placed 1,300 students in private schools this year. In October 1997 the Fund executed a capacity survey locating 4,000 private seats in the Washington metro area—2,000 of which were in the center city. This year 96 percent of WSF scholarships went to those inner city schools. Is a capacity problem then already looming for the older or more successful programs? "Theoretically, we're going to hit a wall at some point," says Patrick Purtill, executive director of the Fund, "but our goal is to give every low-income child in the District of Columbia who wants to go to a private school the opportunity to do so."

There is some hidden private school capacity at the moment. When that runs out—will we have fixed the system in time?

It is this desire of private voucher programs to provide greater opportunities for all poor children that makes capacity an issue to be reckoned with. Ted Forstmann, one of the CSF co-founders, was quoted in the *Los Angeles Times* saying his program is "bounded not so much by our generosity or our money, but by the appropriate capacity of private-school classrooms." Forstmann knows the numbers. Four times the size of his present program probably isn't enough for him. He wants a system that encourages growth.

Jerome Porath, Los Angeles Superintendent of Catholic Schools, explains this point: "Our problem with vouchers, public or private, is that unless and until they are large enough to include space costs, they will never be sufficient to let us meet the demand."

Small privately-funded vouchers don't *increase* capacity—and they won't until they command more buying power. The size of a scholarship program is always a function of funding. The more funds are raised, the more children have a choice. While it is good news that seats are available for many more scholarships, scholarships alone won't educate the two million children soon to enter the system or the ten million poor now in its very worst schools.

A $1,200 scholarship can give a child a choice,

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but it can't build a new classroom. Catholic schools are the most affordable private schools in the inner city, in part, because they are the most heavily subsidized. The national average Catholic tuition of $1,499 covers only 62 percent of the total cost of that education. The rest is paid for by the Church, either at the parish or diocesan level. At these rates, no new schools will be built anytime soon. So what sized voucher could increase capacity?

Porath has run the numbers. To build a typical parish elementary school for 300 students costs between $8 and $10 million. A bond issue at 6 percent on $9 million amortized over 30 years, divided by the number of students, gives you the cost to acquire the space. In order to cover the $654,000 mortgage, a voucher would need a $2,180 price hike. Not bad news really: publicly-funded vouchers between $3,500 and $4,000 just might encourage such spending.

What's the solution?

America needs a competitive education industry where no one limits the supply. Privately-funded voucher programs have already proven the demand side of the equation: if you give people a choice, they'll take it. Now we need a system that delivers an equally simple message to public and private schools alike—educate our children, or go out of business. While vouchers are a good start in this direction, we need a system where the public funding of education can follow the child to her school of choice. Each year Americans make a massive investment in education. Through choice we can channel that spending to schools that work. Where added capacity is needed, choice will best make that known.

Since Cleveland started its publicly-funded voucher program two new schools have opened. The voucher in Cleveland averages $2,250. In Milwaukee, enrollment fluctuations indicate a dynamic market at work: overall enrollment in the city's 32 private high schools actually *declined* one percent last year, while individual schools saw 16 and even 33 percent increases. Voucher student transfers account for most of this movement. The voucher in Milwaukee averages $4,900. It should not be long before some schools in this city are encouraged to expand while others are put out of work.

In the wake of suburban flight, massive resources have been left behind. Not only Catholic and other Christian schools, but community centers, meeting halls, theaters, churches, chapels, and municipal buildings of every sort. No one is calculating how these resources might be converted into useable classroom space. And, under normal circumstances, no one in an abandoned neighborhood is encouraged to do so. For the first time, however, the entrepreneurial spirit that fuels the private voucher movement is bringing creative solutions to bear on the problems of the urban poor.

Pat Rooney, the pioneer in privately-funded vouchers, is now developing a model that will enable inner city churches to open new schools at rock bottom prices. Already five of these "safe haven" schools have opened in Indianapolis and there are seven more around the country. Following the Rooney model, a man named Bernie Miller has already opened a Safe Haven School in Chattanooga in an abandoned church he leases from the Methodists. Next year in Chattanooga, through the generosity of the MacLellan Foundation, three new schools will open in community centers outside of urban housing projects.

A $1,200 scholarship can give a child a choice, but it can't build a classroom. In order to build new schools, vouchers need a price hike.

The CEO America Horizon project in San Antonio should encourage similar innovation and adaptation. Over the next ten years, up to 14,000 low-income children in San Antonio's Edgewood school district may use vouchers worth up to $4,000 to attend the school of their choice. Already two new schools have been created by the program and some existing schools have opened up new classrooms. As in Milwaukee and Cleveland, more development is happening in a shorter time frame here, because the voucher enjoys real buying power and the open market includes both public and private schools. According to Robert Aguirre, director of the Horizon project, "any recognized school under Texas law" qualifies for the program. "We trust the marketplace will find its own level."

Brother Stanley Culotta, the principal of Holy Cross Academy, is concerned that the west side of San Antonio has no Catholic girls' school. He's looking at possibly building one for 600 girls. In 1999 his boys' school will be at maximum capacity. Already he's acquired additional land for $200,000 and expects to spend $10 million building on it. Now that his school has gained a reputation for excellence in the area, he is looking to the community to help him with this expansion.

The Horizon project in San Antonio is the only district-wide private voucher program in the country. It is a harbinger of things to come. On average we spend $6,500 a year per pupil on public education. If tomorrow we were free to spend that money on private as well as public schools, today we could solve our capacity problems.

Samuel Casey Carter *is a Bradley Fellow at The Heritage Foundation and the deputy editor of this special issue of* Policy Review.

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The "Neighborhood Effect" of School Choice

Most people who leave the central cities for the suburbs cite three main reasons for their move: crime, the quality of life, and the quality of the public schools. Cities have been getting the upper hand on crime in recent years, while redevelopment efforts have made many central city neighborhoods more attractive places to live and work. But it will be necessary to restore all three aspects of city life before central cities can hope to reverse the exodus of middle class families.

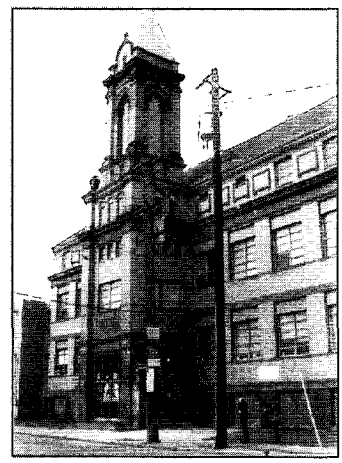
"Good schools are the lifeblood of our cities," says education researcher Denis Doyle, "save the schools and we save our cities." Young families with children are the demographic group that is fleeing the central cities in the highest numbers. "The people leaving the city are those the city needs most to retain its vitality, namely, working- and middle-class families with children," says Doyle. "Cities that lose families with children are in trouble." Most cities are trying to fix their schools with more of the same ingredients that have already failed—more money and greater centralized control. It is time, Doyle argues, to try school choice as an urban renewal strategy instead.

The evidence in favor of such a strategy is growing. A Calvert Institute survey of people who had moved out of Baltimore, for example, found that among families with school-age children, the poor quality of the schools was a primary reason to leave for more than half of them. 82 percent expressed some dissatisfaction with the Baltimore public school system. Perhaps most significant is the finding that of those who cited poor schools as a reason for leaving Baltimore, 51 percent might have stayed in the central city if full school choice were available.

Urban scholars David P. Varady and Jeffrey A. Raffel, authors of *Selling Cities: Attracting Homebuyers Through Schools and Housing Programs*, offer corroborating evidence. Varady and Raffel note that Cincinnati has been more successful than other Ohio cities in stemming the exodus of middle class families because it embraced magnet schools instead of forced-busing to achieve desegregation. But even more significant, Varady and Raffel think, has been the role of Catholic parochial schools. "The Catholic schools are important for the city because they serve as 'neighborhood anchors,'" they write. "The [Catholic] schools serve to promote a high quality of life, particularly for parents who are neighborhood-oriented. St. Catherine School and Nativity School are examples of quality schools that are helping to maintain racially integrated neighborhoods."

Some of the early experiences of pilot school choice programs in central city neighborhoods are encouraging. On Cleveland's lower income east side, a voucher-supported Hope Academy that opened three years ago has contributed significantly to the revitalization of the surrounding neighborhood. At the time the school opened, an abandoned building located across the street attracted indigents, drunks, and prostitutes, and a nearby bar operated 20 hours a day. But the Hope Academy, said John Morris, who provides management services to the school, "became an anchor for the local community, leading to a community effort among people who didn't even have children in the school. It pulled the neighborhood together to eradicate the bad stuff that had been going on."

First, the neighborhood convinced the bar owner to reduce his hours, which led to an immediate decline in public drunkenness and prostitution. The police, who hadn't been much help at first ("They wanted to see if we'd stick around," said Morris), began patrolling more frequently and making more arrests. In the three years since the Hope Academy opened, there have been no auto thefts and only one burglary. There are no longer any bars on the school's windows. "The revival of the neighborhood is a byproduct we hadn't counted upon," said Morris.



Hope Central Academy in Cleveland, Ohio, restored hope to this inner-city neighborhood.

Photo courtesy of the Buckeye Institute

A similar story comes from Pacoima, California, where Yvonne Chan, founder of the Vaughn Learning Center (a charter school where the mostly minority student body is required to wear uniforms), repeatedly asked the police to shut down a crack house located adjacent to the school. Frustrated by inaction, Chan ultimately bought the crack house for $8,000—with savings achieved by contracting out certain school services—and held a "bulldozing party." Neighbors cheered as the crack house was demolished and a new learning center was built on the site. Because California's charter school law allows contracting out and exempts charter schools from the Davis-Bacon prevailing wage requirements, Chan was able to give the building contract to a neighborhood contractor and so further support the local area's growth.

Sociologists have long studied the deleterious "neighborhood effects" of bars, liquor stores, card rooms, and corner drug dealers. The prospect of dozens of small schools that would emerge spontaneously with widespread school choice suggests that the "neighborhood effects" of school choice might go a long way toward revitalizing our central cities.

—Steven Hayward

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The Last Word

No Excuses for Failing Our Children

by Rev. Floyd H. Flake

Rev. Floyd H. Flake is pastor of Allen A.M.E. Church in Queens, N.Y. A Democrat, he served in the House of Representatives for 11 years.

America has been committed to equal opportunity in education ever since the historic *Brown vs. Board of Education* decision of 1954. But our country will never be able to achieve this commitment until we open up choice and competition in our inner-city schools.

The majority of children in our inner cities are not learning. Test scores are abysmal, graduation rates are atrocious, and overall performance is so low that many schools have been shut down altogether. Entire school districts have been taken over by state boards of education.

This collapse of public education is devastating to urban communities and the people who live there. Families refuse to purchase homes in neighborhoods where schools are failing. The stability of inner-city communities, like that of the suburbs, is determined by their ability to attract strong families. Communities that cannot offer families good schools are condemned to failure and deterioration.

What happens to the children is even worse. When children can't read or do even elementary math, they are doomed in a 21st-century economy. We are further marginalizing an entire community that is already socially and economically isolated. We only hurt ourselves when we produce a bumper crop of workers cursed to compete in international markets with unacceptable skills.

The current political order is unwilling to rock the boat. Co-conspiring politicians remain wedded to a system of waste and mediocrity because of the fundraising prowess of teachers unions and other interest groups. Inner city politicians, whose children more often than not attend private schools or the best public schools, are protecting a system that discourages reform, chokes choice, and ultimately condemns children to a life of social and economic dysfunction.

I am not against public schools. I am against unresponsive and irresponsible public schools where educational mediocrity goes unchallenged. I am against public schools that only expect the least from our children. I am against public schools where improvement is stifled by strict union rules and regulations. I am against public schools that imitate the despair of their surrounding neighborhoods and fail to conquer that despair with the tools of learning and the virtue of hope.

There is no excuse for this. Poor children can learn. Set the standards high, and children will meet those standards. I know, because my wife and I run a school where inner-city children do succeed. We have 482 students at Allen Christian School, many of them poor. Their parents are making an enormous sacrifice to send them here. We have hundreds on our waiting list. If we had 1,500 places as so many failing public schools do, I am confident we could easily fill them all. The same is true for hundreds of private schools in New York and other cities.

I am not against public schools. I am against public schools where educational mediocrity goes unchallenged.

There are countless children floundering in public schools, who would flourish in schools like Allen. These children have parents who want a better education for their children. But the public schools are unresponsive to them, and they cannot afford tuition for private school.

Vouchers empower these families. Parents who now are passive recipients of second-rate educational decisions will be transformed by vouchers into powerful consumers who hold the fate of schools in their hands. Teachers and administrators will face greater accountability in places that, for over a generation, have failed to produce good schools. Parents will sit in the places of power where once sat politicians and unions.

With a voucher in Washington, D.C. or New York City where the per pupil funding for public schools approaches $10,000, new vistas of opportunity would confront poor parents. Not only would less expensive religious schools be viable options for children, but the more expensive elite schools would now be in range for poor families.

Every teacher I know wishes parents were more engaged in their children's education. What more engaged role is there for any parent than to decide where their child will attend school?

Some say vouchers will "cream" inner- city schools, that better students will leave the system, reducing resources for the poor students who are left behind. But poorer students have already been left behind. Most families who could do so have already moved to the suburbs or sent their children to special magnet schools.

Some say there aren't enough seats in the private system to meet the needs of inner-city students. Vouchers would help churches and other private institutions multiply the seats available.

In *Brown vs. Board of Education* the Supreme Court held that when public education cannot deliver equal opportunity for every child, it must move to a new delivery system. Nothing in our Constitution says public funding for education requires that it be delivered by the current construct. All citizens, including those in the inner-city, deserve a quality education and vouchers offer the best hope for delivering it to every child.

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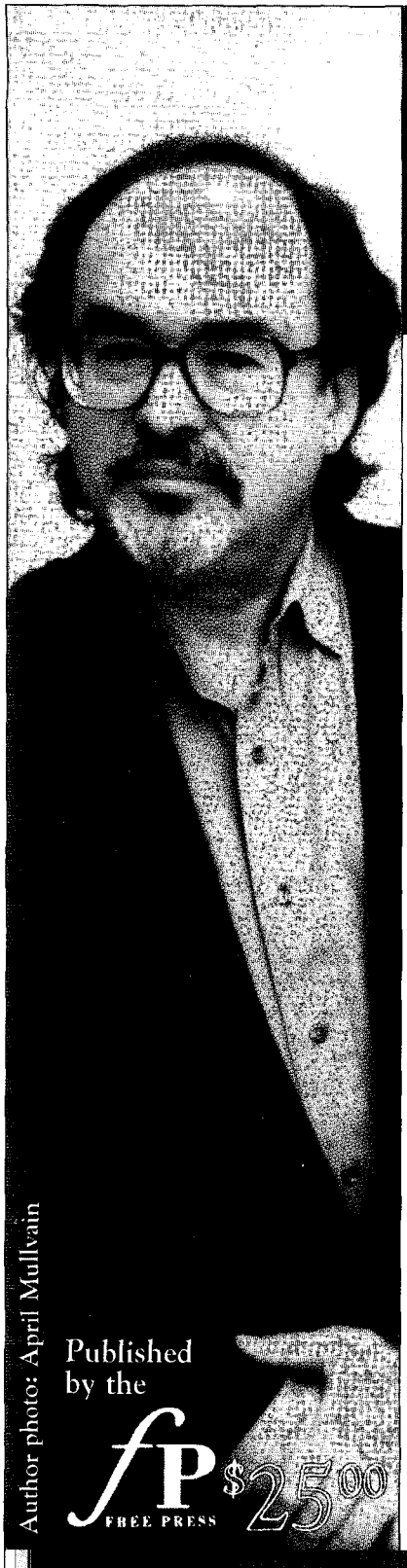

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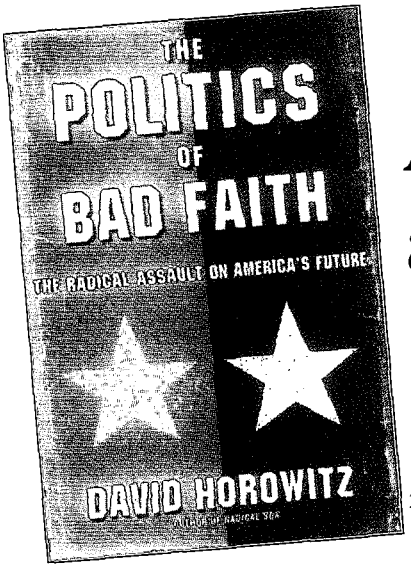

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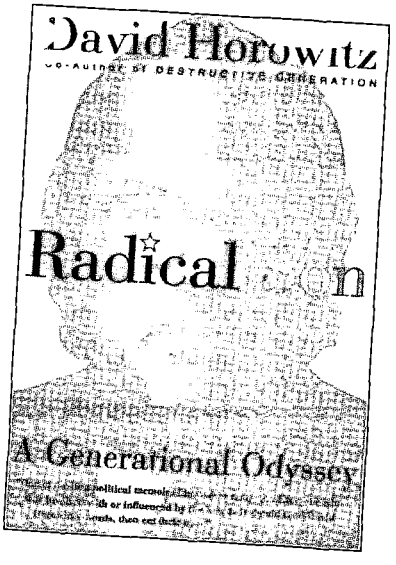

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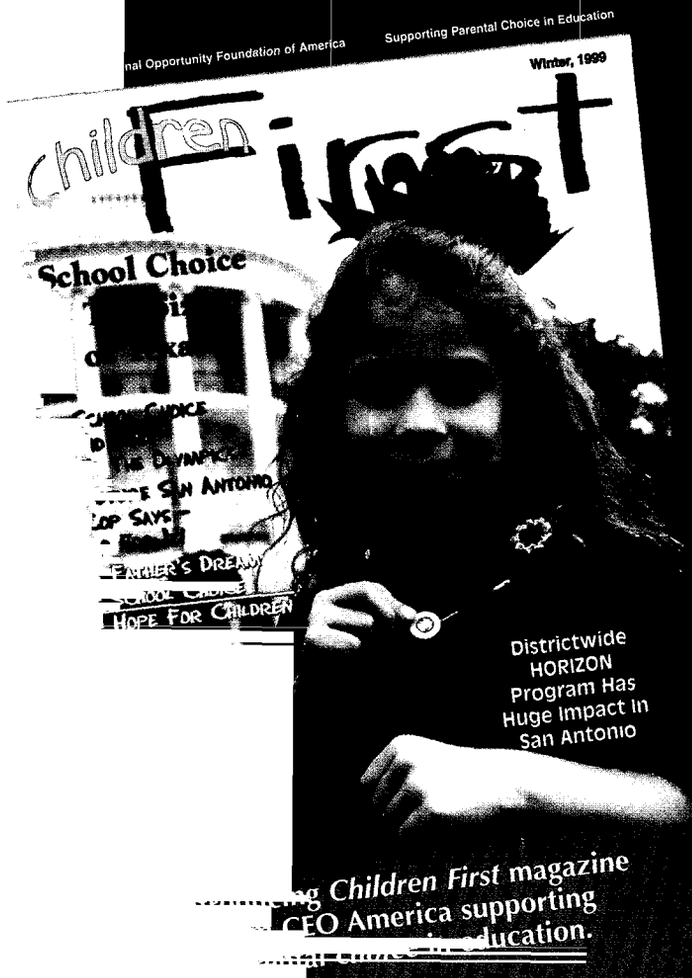
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